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MISCELLANEOUS TARIFF BILLS, 1983-84

HEARING

BEFORE THE

SUBCOMMITTEE ON INTERNATIONAL TRADE

OF THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

OCTOBER 21, 1983

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MISCELLANEOUS TARIFF BILLS, 1983-84

FRIDAY, OCTOBER 21, 1983

SUBCOMMITTEE ON INTERNATIONAL TRADE
OF THE COMMITTEE ON FINANCE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:37 a.m., in room SD-215, Dirksen Senate Office Building, Hon. John C. Danforth (chairman) presiding.

Present: Senators Danforth, Chafee, Bentsen, Matsunaga, and Mitchell.

Also present: Senator Wendell H. Ford and Senator Hugh Scott.

[The press release announcing the hearing and Senator Bentsen's prepared statement follow:]

Press Release No. 83-189

PRESS RELEASE

FOR IMMEDIATE RELEASE
October 7, 1983

UNITED STATES SENATE
COMMITTEE ON FINANCE
Subcommittee on International Trade
SD-219 Dirksen Senate Office Building

SUBCOMMITTEE ON INTERNATIONAL TRADE SETS HEARING ON MISCELLANEOUS TARIFF BILLS

Senator C. John Danforth (R., Mo.), Chairman of the Subcommittee on International Trade, today announced that on Friday, October 21, 1983, the Subcommittee will take testimony on miscellaneous tariff bills pending before the Committee.

The hearing will commence at 9:30 a.m. in Room SD-215 of the Dirksen Senate Office Building.

The bills that may be the subject of either written or oral testimony are listed below:

1. H.R. 3398--(Senate bills that are counterparts to sections of H.R. 3398 are indicated in parentheses).

    a. Section 111 (S. 702) would provide for the reclassification of certain fabrics, articles, and materials, coated, filled, or laminated with rubber or plastics, currently being imported under schedule 7 (specified products; miscellaneous and nonenumerated products), under the appropriate section in schedule 3 (Textiles).

    b. Section 112 (S. 756) would extend permanent, duty-free treatment to warp knitting machines entered, or withdrawn, after June 30, 1983. Parts will also be extended duty-free treatment. It will also provide that when the Column 1 (MFN) rate is reduced to a level at, or below, that of the LDDC rate then the LDDC rate will be deleted.

    c. Section 113 (S. 907) would amend the TSUS to clarify for duty purposes the classification of certain imported gloves used primarily as work gloves.

    d. Section 114 (S. 1423) would provide for an 8.5 percent ad valorem duty on imported toys made of textile materials for pets.

    e. Section 121 (S. 847) would extend the existing duty suspension on crude feathers and down until June 30, 1987.

    f. Section 122 (S. 1512, S. 1583) would provide for continuation of the current duty reduction on canned corned beef.

    g. Section 123 (S. 1364) would extend the current suspension of duty on certain textile fabrics used in the manufacture of hovercraft skirts until June 30, 1986.

    h. Section 124 (S. 37) would reduce the duty on certain disposable surgical drapes and sterile gowns made of man-made fiber products.

i. Section 125 (S. 1372) would suspend the duty on MXDA and (m-Xylenediamine) and 1,3-BAC (1,3-Bis (aminomethyl)-cyclohexane)) for a period of 3 years until June 30, 1986.

j. Section 126 (S. 1266) would suspend the duty on the chemical 4,4-Bis (a,a-dimethyl benzyl diphenylamine) for a period of 3 years until June 30, 1986.

k. Section 127 (S. 1442) would suspend until June 30, 1986 the duty on flecainide acetate, a drug used to treat heart arrhythmias.

l. Section 128 (S. 1480) would temporarily reduce the duty on imports of caffeine for a 2-year period beginning on December 31, 1983, and extending to December 31, 1985.

m. Section 129 (S. 1505) would temporarily reduce the duty on odd shaped or fancy watch crystals to the duty level applicable to round crystals until June 30, 1986.

n. Section 130 (S. 906) would extend until June 30, 1988, the current duty reduction on certain unwrought lead.

o. Section 131 (S. 583) would extend until June 30, 1988, the existing suspension of duties on power drive flat knitting machines over 20 inches in width and parts for such machines.

p. Section 201 (S. 1430, S. 1443) would amend section 313(j) of the Tariff Act of 1930 to provide certain technical changes and to provide specifically that packaging materials imported for use in performing incidental operations are eligible for same condition drawback.

q. Section 202 (S. 1409) would amend section 431 of the Tariff Act of 1930 to provide for public disclosure of certain manifest information on imports into the United States.

r. Section 203 would amend section 441(3) of the Tariff Act of 1930 to exempt certain vessels carrying passengers into the United States Virgin Islands from the entry requirements of the customs laws.

s. Section 204 (S. 1399) would amend the Tariff Act of 1930 by adding a new section seeking to prevent the exportation of certain stolen vehicles, by establishing civil penalties of $10,000 per each violation of imports or exports of stolen self-propelled vehicles, vessels, aircraft, and parts thereof. A verification procedure with approximate documentation would also be established and failure to comply would result in a civil penalty of $500.

t. Section 211(a) (S. 722) would amend section 3 of the Foreign Trade Zones Act of 1934 to exempt bicycle component parts, not reexported, from the exemption from customs laws otherwise available to merchandise in foreign trade zones. The exemption imposed by this provision would be in effect until June 30, 1986.

u. Section 211(b) (S. 1411) would amend section 15 of the Foreign Trade Zones Act of 1934 to provide that tangible personal property imported from outside the United States, and held in a foreign trade zone for any of several enumerated purposes, and tangible personal property if produced in the United States and held in a zone of exportation, would be exempt from State and local ad valorem taxation.

v. Section 212 (S. 1406) would provide for the duty-free entry of a pipe organ for the Crystal Cathedral of Garden Grove, California.

w. Section 213 (S. 1486) would provide for the duty free reliquidation of certain entries of scientific equipment for the use of the Ellis Fischel State Cancer Hospital of Columbia, Missouri.

2. S. 221 would suspend until June 30, 1986 the duty on certain menthol feedstocks.
3. S. 230 would reclassify certain cordage products with the result that higher rates of duty will be applicable to them.
4. S. 453 would impose a one-tenth of one cent duty on apple and pear juice.
5. S. 526 would increase duties on honey imports.
6. S. 759 would reduce the rate of duty for certain fish netting and fish nets.
7. S. 1123 would suspend until September 30, 1986 the duty on 2-methyl, 4-chlorophenol.
8. S. 1141 would reinstate, until June 30, 1986, the suspension of duties on certain unwrought alloys of cobalt (TSUS item 911.90) that was in effect until June 30, 1983.
9. S. 1158 would accord duty-free treatment to imported water chestnuts and bamboo shoots.
10. S. 1184 would increase from $250 to $1,000 the amount for informal entry of goods.
11. S. 1265 would reduce the rate of duty for gut imported for use in the manufacture of surgical sutures.
12. S. 1296 would increase the rate of duty on imported roses.
13. S. 1420 would authorize suspension of the rates of duty on semiconductors and computers.
14. S. 1476 would suspend until January 1, 1986 the rate of duty on 6-amino-1-naphthol-3-sulfonic acid.
15. S. 1477 would suspend until December 31, 1985 the rate of duty on 2-(4-aminophenyl)-6-methylbenzothiazole-7-sulfonic acid.
16. S. 1478 would suspend temporarily the rate of duty on B-naphthol.
17. S. 1481 would suspend the rate of duty on sulfanilamide until December 31, 1986.
18. S. 1482 would suspend the rate of duty on sulfaquinoxaline until December 31, 1986.
19. S. 1483 would suspend the rate of duty on sulfaquanidine until December 31, 1986.
20. S. 1484 would suspend the rate of duty on sulfamethaz until December 31, 1986.
21. S. 1485 would suspend the duty on sulfathiazole until the close of December 31, 1986.
22. S. 1507 would suspend until October 29, 1986 the entire rate of duty on canned corned beef. (Compare H.R. 3398, section 122.)

23. S. 1518 would impose a duty on tubeless tire valves.

24. S. 1524 would suspend until December 31, 1985 the rate of duty on parts of spindle motors suitable for computer memory disk drives.

25. S. 1542 would increase the rate of duty on melamine.

26. S. 1636 would reclassify and increase the rate of duty applicable to certain imported citrus products.

27. S. 1642 relates to the tariff treatment of certain telescopes not designed for use with infrared light.

28. S. 1743 would suspend temporarily the rate of duty on certain benzenoid chemicals (NA-125 and NA-125-chloride).

29. S. 1759 would extend until June 30, 1987 the current suspension of duties on 4-chloro-3-methylphenol.

30. S. 1771 would extend the current temporary suspension of duties on certain clock radios until September 30, 1987.

31. S. 1808 would require imported pipe, pipe fittings, and cylinders to be marked permanently with their country of origin.

32. S. 1845 would amend TSUS item 801.00 to provide that articles reimported into the United States, if they previously entered duty-free pursuant to provisions of the Caribbean Basin Recovery Act or the Generalized System of Preferences, could again enter duty-free.

33. S. 1886--would suspend for a three-year period the duty on a certain chemical intermediate.

34. H.J. Res. 290 would permit duty-free entry of the personal effects, equipment, and related articles of foreign participants, officials, and other accredited members of delegations to the Los Angeles Olympic Games.

Requests to testify--Witnesses who wish to testify at the hearing must submit a written request to Roderick A. DeArment, Chief Counsel, Committee on Finance, Room SD-219, Dirksen Senate Office Building, Washington, D.C. 20510, to be received no later than noon on Monday, October 17, 1983. Witnesses will be notified as soon as practicable thereafter whether it has been possible to schedule them to present oral testimony. If for some reason a witness is unable to appear at the time scheduled, he may file a written statement for the record in lieu of the personal appearance. In such a case, a witness should notify the Committee of his/her inability to appear as soon as possible.

Consolidated testimony.--Senator Danforth urges all witnesses who have a common position or who have the same general interest to consolidate their testimony and designate a single spokesman to present their common viewpoint orally to the subcommittee. This procedure will enable the subcommittee to receive a wider expression of views than it might otherwise obtain. Senator Danforth urges that all witnesses exert a maximum effort to consolidate and coordinate their statements.

Legislative Reorganization Act.--Senator Danforth stated that the Legislative Reorganization Act of 1946, as amended, requires all witnesses appearing before the Committees of Congress "to file in advance written statements of their proposed testimony, and to limit their oral presentations to brief summaries of their argument."

Witnesses scheduled to testify should comply with the following rules:

(1) All witnesses must submit written statements of their testimony.

(2) Written statements must be typed on letter-size paper (not legal size)and at least 100 copies must be delivered not later than noon on Thursday, October 20, 1983.

(3) All witnesses must include with their written statements a summary of the principal points included in the statement.

(4) Oral presentations should be limited to a short discussion of principal points included in the one-page summary. Witnesses must not read their written statements. The entire prepared statement will be included in the record of the hearing.

(5) No more than 5 minutes will be allowed for the oral summary.

Written statements.--Witnesses who are not scheduled to make an oral presentation, and others who desire to present their views to the subcommittee, are urged to prepare a written statement for submission and inclusion in the printed record of the hearing. These written statements should be typewritten, not more than 25 double-spaced pages in length, and mailed with five (5) copies to Roderick A. DeArment, Chief Counsel, Committee on Finance, Room SD-219, Dirksen Senate Office Building, Washington, D.C. 20510, not later than October 31, 1983. On the first page of your written statement, please indicate the date and subject of the hearing.

Witnesses should not submit written statements if they already have responded to previous Committee requests for comments on these bills.

P.R. 83-189

Senator DANFORTH. We have some 15 bills that we are going to have hearings on this morning, and there are some three and a half pages of witnesses. You have all been asked to observe time limits. Your statements will be incorporated in the record in full, so you don't even have to take the time to ask that your statements be incorporated in the record. They will be. I would ask all of the witnesses to please adhere very strictly to the time limits.

I am going to try to refrain from asking questions, if I can, but we may be submitting questions to you in the next few days to answer in writing.

The first bill is S. 722, and Senator Ford is with us today.

STATEMENT OF HON. WENDELL H. FORD, U.S. SENATOR FROM THE STATE OF KENTUCKY

Senator FORD. Thank you, Mr. Chairman.

Mr. Chairman, I appreciate the opportunity to appear before your subcommittee today in support of S. 722, legislation which Senator Huddleston and I have introduced to exempt bicycle component parts which are not reexported from the customs law exemption available to merchandise in foreign trade zones.

This legislation has been introduced in response to an application by Huffy Corp. for a foreign trade subzone at its manufacturing facility in Celina, Ohio. The application if granted will seriously threaten the bicycle parts industry in the United States and result in the export of many jobs to other countries.

As this subcommittee well knows, over the last 13 years Congress has expressed a clear intent with regard to tariff rates on bicycles and bicycle component parts. Tariff schedules have been written and revised so that the duty on component parts and manufactured bicycles are roughly in balance.

The average duty rate on bicycles is 5.5 percent for lightweight bicycles and 11 percent for all other bicycles, while the tariff on most bicycle component parts is 13.3. These rates are balanced through a series of duty suspensions which allow virtually every bicycle part not manufactured in this country to be imported duty free.

Today, 42 percent by value of the parts which go into a bicycle are imported duty free. If the application for a subzone is granted, Huffy will be able to make an end run around our tariff laws and will import 100 percent of its parts into the zone, assemble those parts into a bicycle, and then bring that bicycle out of the zone at the lower tariff rate established for finished bicycles. This will reduce the effective tariff rate on bicycle parts from 13.3 percent to 5.5. It will avoid the tariff protection which Congress has established for those few bicycle component parts which are still manufactured in this country.

Huffy now controls 40 percent of the domestic bicycle production market. The second largest bicycle manufacturer, Murray Corp., has approximately 30 percent of the domestic market.

If Huffy sets up a trade zone, Murray, in order to remain competitive, would also have to seek and obtain foreign trade zone status. The impact this would have on the domestic bicycle component manufacturing industry I think is clear: The industry would be devastated, and thousands of jobs would be exported from the United States to Taiwan, Korea, and Japan.

This situation has been brought to my attention by Wald Manufacturing Co., a maker of bicycle component parts in Maysville, Ky. Maysville is a small but delightful town, and Wald has been a major employer there, with a work force of as many as 400 workers in peak production years. Today, average employment is down to 225. If the Huffy subzone is granted, many of these jobs if not all will be lost to foreign manufacturers.

Because Maysville is a small town, there are few alternative employment opportunities. These people will be sent to the unemployment lines where they will likely remain for a long time.

Mr. Chairman, I support the use of foreign trade zones, and I believe they have generally been beneficial to the U.S. economy. In recent years, however, as more and more manufacturing facilities have switched to trade zone status, questions have been raised about the exact impact they have on net domestic employment.

The House Ways and Means Committee shares this concern and has requested the International Trade Commission and the Government Accounting Office to investigate the net impact foreign trade zones have on the U.S. economy. Depending on the outcome of this investigation, legislation may be developed to provide more comprehensive standards for granting foreign trade zone status.

The bicycle component parts industry cannot wait for that study to be completed and legislation enacted. If the Huffy application is granted, it will be too late. The industry will be devastated, and thousands of jobs will be lost.

It is the responsibility of the Congress to step in and prevent that unemployment by enacting S. 722. The House has already done this in section 211(a) of H.R. 3398, a miscellaneous trade bill. That section, however, exempts bicycle component parts from the trade zone laws for only a 3-year period. Of course, that won't be the answer if in 3 years the Huffy application is granted and unemployment is only delayed.

Mr. Chairman, it would be unconscionable if Congress were to stand by and abdicate its responsibility by allowing an office in the Commerce Department to make a decision that could devastate a domestic industry: I urge your subcommittee to approve S. 722.

Mr. Chairman, I have included with my written remarks an attachment that lists those parties who have filed comments on the Huffy application with the Foreign Trade Zone Board. I have also included a summary of their comments, and I request that they may be made a part of the record.

Senator DANFORTH. They will be, Senator Ford. Thank you very much. As always, you were succinct.

Senator FORD. Say something nice, will you, please?

[Laughter.]

Senator FORD. And, Mr. Chairman, I would like to file for the record a statement by our distinguished colleague from Illinois, Senator Dixon.

Senator DANFORTH. Thank you very much.

Senator FORD. I thank the chairman for allowing me to appear before the subcommittee.

Senator DANFORTH. Thank you, Wendell.

[The prepared statement of Senator Wendell H. Ford and attachment, and Senator Dixon's statement follow:]

STATEMENT OF SENATOR WENDELL H. FORD
IN SUPPORT OF S. 722

BEFORE THE SENATE FINANCE COMMITTEE
SUBCOMMITTEE ON INTERNATIONAL TRADE
OCTOBER 21, 1983

MR. CHAIRMAN, I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE THIS SUBCOMMITTEE TODAY IN SUPPORT OF S. 722, LEGISLATION WHICH SENATOR HUDDLESTON AND I HAVE INTRODUCED TO EXEMPT BICYCLE COMPONENT PARTS WHICH ARE NOT REEXPORTED, FROM THE CUSTOMS LAW EXEMPTION AVAILABLE TO MERCHANDISE IN FOREIGN TRADE ZONES.

THIS LEGISLATION HAS BEEN INTRODUCED IN RESPONSE TO AN APPLICATION BY HUFFY CORPORATION FOR A FOREIGN TRADE SUBZONE AT ITS MANUFACTURING FACILITY IN CELINA, OHIO. THE APPLICATION, IF GRANTED, WILL SERIOUSLY THREATEN THE BICYCLE PARTS INDUSTRY IN THE UNITED STATES AND RESULT IN THE EXPORT OF MANY JOBS TO OTHER COUNTRIES.

AS THIS SUBCOMMITTEE KNOWS, OVER THE LAST 13 YEARS CONGRESS HAS EXPRESSED A CLEAR INTENT WITH REGARD TO THE TARIFF RATES ON BICYCLES AND BICYCLE COMPONENT PARTS. TARIFF SCHEDULES HAVE BEEN WRITTEN AND REVISED SO THAT THE DUTY ON COMPONENT PARTS AND MANUFACTURED BICYCLES ARE ROUGHLY IN BALANCE. THE AVERAGE DUTY RATE ON BICYCLES

IS 5½% FOR LIGHTWEIGHT BICYCLES AND 11% FOR ALL OTHER BICYCLES WHILE THE TARIFF ON MOST BICYCLE COMPONENT PARTS IS 13.3%. THESE RATES ARE BALANCED THROUGH A SERIES OF DUTY SUSPENSIONS WHICH ALLOWS VIRTUALLY ~~VERY~~ EVERY BICYCLE PART NOT MANUFACTURED IN THIS COUNTRY TO BE IMPORTED DUTY FREE. TODAY 42%, BY VALUE, OF THE PARTS WHICH GO INTO A BICYCLE, ARE IMPORTED DUTY FREE.

IF THE APPLICATION FOR A SUBZONE IS GRANTED, HUFFY WILL BE ABLE TO MAKE AN END RUN AROUND OUR TARIFF LAWS AND WILL IMPORT 100% OF ITS PARTS INTO THE ZONE, ASSEMBLE THOSE PARTS INTO A BICYCLE, AND THEN BRING THAT BICYCLE OUT OF THE ZONE AT THE LOWER TARIFF RATE ESTABLISHED FOR FINISHED BICYCLES. THIS WILL REDUCE THE EFFECTIVE TARIFF RATE ON BICYCLE PARTS FROM 13.3% TO 5.5%. IT WILL AVOID THE TARIFF PROTECTION WHICH CONGRESS HAS ESTABLISHED FOR THOSE FEW BICYCLE COMPONENT PARTS WHICH ARE STILL MANUFACTURED IN THIS COUNTRY.

HUFFY NOW CONTROLS 40% OF THE DOMESTIC BICYCLE PRODUCTION MARKET. THE SECOND LARGEST DOMESTIC BICYCLE MANUFACTURER -- MURRAY CORPORATION -- HAS APPROXIMATELY 30% OF THE DOMESTIC MARKET. IF HUFFY SETS UP A TRADE SUBZONE, IN ORDER TO REMAIN COMPETITIVE, MURRAY WOULD ALSO HAVE TO SEEK AND OBTAIN FOREIGN TRADE SUBZONE STATUS. THE IMPACT THIS WOULD HAVE ON THE DOMESTIC BICYCLE COMPONENT MANUFACTURING INDUSTRY IS CLEAR. THE INDUSTRY WOULD BE DEVASTATED AND THOUSANDS OF JOBS WOULD BE EXPORTED FROM THE UNITED STATES TO TAIWAN, KOREA AND JAPAN.

THIS SITUATION HAS BEEN BROUGHT TO MY ATTENTION BY WALD MANUFACTURING COMPANY, A MAKER OF BICYCLE COMPONENT PARTS IN MAYSVILLE, KENTUCKY. MAYSVILLE IS A SMALL TOWN AND WALD HAS BEEN A MAJOR EMPLOYER THERE WITH A WORK FORCE OF AS MANY AS 400 WORKERS IN PEAK PRODUCTION YEARS. TODAY, AVERAGE EMPLOYMENT IS DOWN TO 225. IF THE HUFFY SUBZONE IS GRANTED, MANY OF THESE JOBS, IF NOT ALL, WILL BE LOST TO FOREIGN MANUFACTURERS. BECAUSE MAYSVILLE IS A SMALL TOWN, THERE ARE FEW ALTERNATIVE EMPLOYMENT OPPORTUNITIES. THESE PEOPLE WILL BE SENT TO THE UNEMPLOYMENT LINES WHERE THEY WILL LIKELY REMAIN FOR A LONG TIME.

MR. CHAIRMAN, I SUPPORT THE USE OF FOREIGN TRADE ZONES AND I BELIEVE THEY HAVE GENERALLY BEEN BENEFICIAL TO THE UNITED STATES ECONOMY. IN RECENT YEARS, HOWEVER, AS MORE AND MORE MANUFACTURING FACILITIES HAVE SWITCHED TO TRADE ZONE STATUS, QUESTIONS HAVE BEEN RAISED ABOUT THE EXACT IMPACT THEY HAVE ON NET DOMESTIC EMPLOYMENT. THE HOUSE WAYS AND MEANS COMMITTEE SHARES THIS CONCERN AND HAS REQUESTED THE INTERNATIONAL TRADE COMMISSION AND THE GOVERNMENT ACCOUNTING OFFICE TO INVESTIGATE THE NET IMPACT FOREIGN TRADE ZONES HAVE ON THE U. S. ECONOMY. DEPENDING ON THE OUTCOME OF THIS INVESTIGATION, LEGISLATION MAY BE DEVELOPED TO PROVIDE MORE COMPREHENSIVE STANDARDS FOR GRANTING FOREIGN TRADE ZONE STATUS.

THE BICYCLE COMPONENT PARTS INDUSTRY CANNOT WAIT FOR THAT STUDY TO BE COMPLETED AND LEGISLATION ENACTED. IF THE HUFFY APPLICATION IS GRANTED, IT WILL BE TOO LATE; THE INDUSTRY WILL BE DEVASTATED AND THOUSANDS OF JOBS LOST.

IT IS THE RESPONSIBILITY OF CONGRESS TO STEP IN AND PREVENT THAT UNEMPLOYMENT BY ENACTING S. 722. THE HOUSE HAS ALREADY DONE THIS IN SECTION 211(A) OF H. R. 3398, A MISCELLANEOUS TRADE BILL. THAT SECTION, HOWEVER, EXEMPTS BICYCLE COMPONENT PARTS FROM THE FOREIGN TRADE ZONE LAWS FOR ONLY A THREE-YEAR PERIOD. OF COURSE, THAT WON'T BE AN ANSWER IF, IN THREE YEARS, THE HUFFY APPLICATION IS GRANTED AND UNEMPLOYMENT IS ONLY DELAYED.

MR. CHAIRMAN, IT WOULD BE UNCONSCIONABLE IF CONGRESS WERE TO STAND BY AND ABDICATE ITS RESPONSIBILITIES BY ALLOWING AN OFFICE IN THE COMMERCE DEPARTMENT TO MAKE A DECISION THAT COULD DEVASTATE A DOMESTIC INDUSTRY. I URGE YOUR SUBCOMMITTEE TO APPROVE S. 722.

I HAVE INCLUDED WITH MY WRITTEN REMARKS AN ATTACHMENT THAT LISTS THOSE PARTIES WHO HAVE FILED COMMENTS ON THE HUFFY APPLICATION WITH THE FOREIGN TRADE ZONE BOARD. I HAVE ALSO INCLUDED A SUMMARY OF THEIR COMMENTS AND I REQUEST THAT THIS BE MADE A PART OF THE HEARINGS RECORD.

ALAN J. DIXON
ILLINOIS

COMMITTEES:
AGRICULTURE, NUTRITION, AND FORESTRY
BANKING, HOUSING AND URBAN AFFAIRS
SMALL BUSINESS

United States Senate
WASHINGTON, D.C. 20510

Statement of Senator Alan J. Dixon
Friday, October 21, 1983

Alan J Dixon

BICYCLE MANUFACTURING

A DOMESTIC INDUSTRY WORTH SAVING

Mr. Chairman, as a cosponsor of S. 722, I am grateful to the Committee for conducting hearings on H.R. 3398 and the companion Senate bills.

Of particular interest to my state is the exemption of bicycle component parts, which are not reexported, from the exemption which is otherwise available to merchandise in foreign trade zones.

The Huffy Corporation applied to the Foreign Trade Zone Board for foreign trade subzone status. Huffy is the largest bicycle manufacturer in this country. That company has a 42% share of the domestic market. It has increased its market share in recent years, and, in my opinion, has little need for a government-granted advantage over its competitors.

The domestic bicycle parts industry has already suffered from foreign competition. Currently 67% of these parts are imported. There are only 26 domestic parts companies left in the United States. For the record, I would like to submit a list which was provided by the Cycle Parts and Accessories Association, listing the parts manufacturers which are remaining,

BELLEVILLE OFFICE:
618-235-0998
10 EAST WASHINGTON
BELLEVILLE, ILLINOIS 62220

CHICAGO OFFICE:
312-353-5420
230 S. DEARBORN STREET
ROOM 3996
CHICAGO, ILLINOIS 60604

SPRINGFIELD OFFICE:
217-492-4126
POST OFFICE AND COURT HOUSE
ROOM 108
6TH AND MONROE
SPRINGFIELD, ILLINOIS 62701

MOUNT VERNON OFFICE:
618-244-6703
FEDERAL BUILDING
ROOM 227
108 SOUTH 6TH STREET
MOUNT VERNON, ILLINOIS 62864

and the states in which they are located. My state of Illinois has four companies still operating.

Of particular concern to me is the Roadmaster Corporation in Olney, Illinois. The company currently employs 800 persons. It is a small manufacturer of bicycles, but it is the major employer in Richland County, Illinois, whose unemployment rate in August was 16.7%. According to company officials, if the Huffy application is accepted, and this legislation is not enacted, Roadmaster Corporation would be severely impacted and would be forced to close its doors. It would also mean the total demise of the few remaining bicycle parts manufacturers in this country.

I am pleased that Robert Zinnen from Roadmaster Corporation is here today. I know that his testimony will be helpful to the committee in its consideration of this bill.

Last August, I wrote to Senator Moynihan and Senator Heinz, encouraging support for this legislation. I believe it is of particular interest since New York and Pennsylvania both have bicycle parts manufacturers.

I visited the Roadmaster Corporation in Olney, Illinois during the August recess. It is a thriving business, but cannot remain so unless we enact this bill.

The Foreign Trade Zone program was intended to provide an incentive to create jobs in this country. Yet, I believe if the Huffy application is approved, and this exemption is not enacted, the opposite will result.

I join Senators Ford and Huddleston in requesting your favorable consideration of S. 722.

DOMESTIC BICYCLE PARTS MANUFACTURERS

PENNSYLVANIA - 2

Carlisle Tire and Rubber Co.
P.O. Box 99
Carlisle, Pennsylvania 17013

National Bearings Company
Manheim, Pike and Flory Mill Road
P.O. Box 4726
Lancaster, Pennsylvania 17604

NEW YORK - 1

Elrae Industries, Inc.
11035 Walden Avenue
Alden, New York 14004

ILLINOIS - 4

Amerace-Emconite Division
3445 North Kimball Avenue
Chicago, Illinois 60618

Excel, Inc.
9362 West Grand Avenue
Franklin Park, Illinois 60131

Stewart-Warner Corporation
1826 Diversey Parkway
Chicago, Illinois 60614

Ti Sturmey-Archer of America, Inc.
1014 Carolina Drive
West Chicago, Illinois 60185

INDIANA - 5

ABS Industries, Inc.
2100 Goshen Road, Suite 237
Fort Wayne, Indiana 46808

The Bendix Corporation
Bicycle & Ignition Components Division
401 Bendix Drive
P.O. Box 4001
South Bend, Indiana

Ohio Rod Products
P.O. Box 416
Versailles, Indiana 47042

South Bend Forge
P.O. Box 4220
South Bend, Indiana 46634

Sun Metal Products, Inc.
P.O. Box 1508
Warsaw, Indiana 46580

OHIO - 4

Ashtabula Forge
4212 Ann Avenue
Ashtabula, Ohio

Colfor, Inc.
P.O. Box 485
Malvern, Ohio 44644

Persons-Majectic Mfg. Co.
Faulhaber Division
21 Hamilton Street
Monroeville, Ohio 44847

ABS Industries, Inc.
P.O. Box 630
Willoughby, Ohio 44094

WISCONSIN - 1

Graber Products, Inc.
5253 Verona Road
Madison, Wisconsin 53711

CALIFORNIA - 2

American Cycle Systems, Inc.
1449 Industrial Park Street
Covina, California 91722

The J.C.I. Agency
904 South Nogales Street
City of Industry, California 91744

CONNECTICUT - 2

Hartford Bearing Co.
951 West Street
Rocky Hill, Connecticut 06067

Mesinger Manufacturing Co.
Durant Avenue
Bethel, Connecticut 06801

KENTUCKY - 1

Wald Manufacturing Co., Inc.
P.O. Box 10
Maysville, Kentucky 41056

FLORIDA - 1

Hunt-Wilde Corporation
Pan American Plastics Division
2835 Overpass Road
Tampa, Florida 33615

OREGON - 1

Kool-Stop Safety Brake
P.O. Box 1304
Lake Grove, Oregon 97034

TENNESSEE - 2

Thun, Inc.
Clarksville, Tennessee

Troxel Manufacturing Co., Inc.
Moscow, Tennessee 38057

Senator DANFORTH. On 722, we have five witnesses who will appear as a panel: Mr. Pawsat, Mr. Zinnen, Mr. O'Reilly, Mr. Lane, and Mr. O'Connor.

Mr. Pawsat.

STATEMENT OF CARLTON P. PAWSAT, PRESIDENT, WALD MANUFACTURING, MAYSVILLE, KY.

Mr. PAWSAT. Mr. Chairman, we have been allowed, as I understand it, 2½ minutes for two witnesses. If we may, we will have two witnesses, 2 minutes for each, and then we would like to hold a minute for rebuttal.

Senator DANFORTH. Well, I would appreciate it if the for-side would take 5 minutes and if the against-side would take 5 minutes.

Mr. PAWSAT. OK. Our witnesses, then, will be Tim O'Reilly for the bicycle parts industry, and Bob Zinnen for the bicycle manufacturers who are opposing the Huffy trade zone application. The first witness will be Mr. Zinnen, vice president of Roadmaster.

Senator DANFORTH. All right.

[The prepared testimony of Carlton P. Pawsat follows:]

I. INTRODUCTION

My name is Carlton Pawsat, President of Wald Manufacturing Company, Inc. I appreciate the opportunity to testify in support of section 211(a) of H.R. 3398 and of S. 722. These bills are of vital concern to our company, our employees, and our industry.

Wald manufactures bicycle parts in Maysville, Kentucky. We have been in business since 1905 and in Maysville since 1924. We are a small business in a rural community. Our operations, equipment, and plant facilities are modern. Because our only business is bicycle parts, our company's survival and our employees' jobs are solely dependent on the survival of the domestic bicycle parts industry. Our industry is threatened by an application to the Foreign-Trade Zones Board for a manufacturing subzone at Huffy Corporation's Celina, Ohio plant, FTZ Docket No. 17-82.

In the past decade, the bicycle parts industry has been seriously eroded. A combination of increased importation of bicycle parts, the recessionary economy, and the strong dollar overseas have depressed our industry and our company. Wald's employment has, as a result, dropped from over 400 employees working overtime in 1973-74 to approximately 225 today, working a 4-day week for the most part of 1980, 1981, and 1982. Our industry has always had its ups and downs; however, we feel we can again survive until better times, unless the Huffy Corporation is granted this subzone.

II. TARIFFS ON IMPORTED BICYCLES AND PARTS ARE BALANCED.

Huffy does not seek to increase exports through its subzone. Instead, it seeks to avoid tariffs on those parts which are subject to duty if imported. Presently, 42% of the dollar volume of imported parts come into this country duty free through the duty suspension bill. The remaining imported parts are subject to tariffs, most of which are 13.3% declining to 10% by 1987. In comparison, the tariffs on imported bicycles are 5 1/2% for lightweight bicycles and 11% on most other imported bicycles. Because of the tariff-free status of 42% of imported parts (by dollar volume), a fair balance exists between the average tariffs on imported bicycles and the average tariffs on imported parts. That is, the tariff on imported bicycles is virtually the same, on average, as that on bicycle parts imported for assembly in the U.S. into a bicycle.

III. THE HUFFY SUBZONE WILL DESTROY THIS BALANCE.

Because only those parts which are available from a domestic manufacturer are presently subject to tariffs, Huffy's prime incentive in seeking a subzone is to gain a cost advantage over its competitors by increasing importation of parts which are available domestically without paying the tariffs established by this Subcommittee.

IV. HUFFY'S SUBZONE WILL DESTROY THE DOMESTIC BICYCLE PARTS INDUSTRY.

Huffy cannot deny that the primary purpose of the subzone application by Huffy is to avoid tariffs on imported parts which go into bicycles Huffy produces for domestic consumption. This avoidance will occur as a result of assembly in the subzone of imported parts into finished bicycles. When those bicycles leave the subzone into our economy, Huffy will pay the duty rate for bicycles, which, for the most part, carry a much lower duty rate than the established rate for imported parts. The subzone will allow Huffy to pay the bicycle rate (5 1/2% or 11%, depending on bicycle type) rather than the imported parts rate (most in the range of 13%) on all of its imported parts, resulting in a unilateral reduction of over 50% in the amount of tariff duty Huffy pays. Huffy's application states that this reduction in duty "could range as high as $2,400,000 per year" (and we believe this estimate to be low). This duty reduction is a direct loss to U.S. revenues. Moreover, every penny Huffy saves in tariffs will come out of the hides of domestic bicycle parts manufacturers.

Huffy will have no incentive to make or buy domestically manufactured bicycle parts. Huffy is this country's largest manufacturer of bicycles, with a domestic production share of 40%. The second largest bicycle manufacturing company, which enjoys over 30% of the domestic bicycle production market, will be forced to make the same move for a subzone in order to stay competitive. As a result, the U.S. bicycle parts market will shrink to nil. Smaller U.S. bicycle manufacturers who cannot qualify for or support the cost of a subzone will not be able to remain competitive and will be forced out of business.

V. THE HUFFY SUBZONE WILL DESTROY BETWEEN 2,000 AND 10,000 U.S. JOBS.

The domestic bicycle parts industry employs over 2,000 U.S. workers. Additionally, our industry sources its materials domestically. The domestic bicycle industry employs approximately 8,000 U.S. workers. Companies from both industries oppose the Huffy subzone and support these bills because they realize that the two industries' destinies are mutually dependent.

Both industries are very competitive, depressed, and import sensitive. Bicycle manufacturers have lost 25% of their market to imports. Bicycle parts manufacturers have lost 67% of their market to imports. Loss of any additional market share threatens our industry's survival. In recognition of these facts, 12 U.S. parts manufacturers and 8 U.S. bicycle manufacturers, as well as two foreign trade zone operators have filed in opposition to Huffy's application. Only one parts manufacturer and no bicycle manufacturer or foreign trade zone operator has filed with the Board in support of the Huffy application.

VI. CONGRESSIONAL ACTION IS NEEDED TO PREVENT THIS MISUSE OF THE FOREIGN-TRADE ZONES ACT.

Subzones have never been authorized by Congress. Instead they have come about by regulations. Those regulations do not establish any criteria for establishment of a subzone other than that a subzone "may be authorized if the Board finds that existing...zones will not serve adequately the convenience of commerce...." Regulations establishing criteria have been proposed for comment but have not been finalized. The legislative intent behind the Foreign-Trade Zones Act was to expedite and encourage foreign trade, thereby stimulating the U.S. economy and domestic employment. However, as applied to the bicycle parts industry, the Huffy subzone would be counterproductive. According to the Foreign-Trade Zones Board itself, only 33% of the goods currently entering zones and subzones is of domestic origin; and only 30% of the goods shipped out of the zones are exported. Thus, 70% of these goods are foreign imports into the United States.

Through its subzone application, Huffy is attempting to subvert the intent of Congress with regard to the purpose of the Foreign-Trade Zones Act and to upset the delicate balance which this Committee has enforced regarding tariffs on bicycle parts. The proceeding before the Foreign-Trade Zones Board is an openly calculated attempt to avoid the tariffs on bicycle parts and is an abuse of that process.

VII. THIS LEGISLATION WOULD NOT PREVENT HUFFY'S USE OF A SUBZONE FOR VALID ENDS: INCREASE OF EXPORTS.

The bills pending before this Subcommittee would allow Huffy to use a subzone for re-export purposes. Thus, if Huffy truly wishes to increase exports, it can do so with this legislation in force.

However, despite statements in their application about plans to increase exports, Huffy does not truly intend to do so. They have admitted as much before the House

Committee on Ways and Means, and their presence here today in opposition to these bills is further proof of their true intent: tariff avoidance.

The devastating impact which a Huffy subzone would have on domestic bicycle parts manufacturers, without legislative relief, is all the more ironic in light of Huffy's own statements that subzone approval "is really not something that will make or break us..." (statement by Huffy General Counsel Bob Wieland as reported in *The Daily Standard* on May 16, 1983, per copy attached as Exhibit I). *Approval will "break" many domestic bicycle parts manufacturers* and may force smaller domestic bicycle manufacturers out of business. Destruction of these typically small businesses to provide an incremental advantage to the dominant firm in the industry simply makes no sense.

Moreover, *Huffy Corporation doesn't need to back the domestic parts manufacturers in a corner* for corporate gain, as they are already in a sound business position. In fact, Huffy's fourth quarter ending June 24, 1983, was reported in *Barron's* as "the most profitable quarter in the Company's history." (*See* Exhibit II attached.) For this period, earnings before nonrecurring charges were $3,046,000. These earnings "do not reflect any of the benefits that will be realized from the bicycle plant consolidation that occurred in fiscal 1983." According to Huffy's news release of April 14, 1983, (*See* Exhibit III), the closing of their Ponca City, Oklahoma, plant and consolidation of activities at their Celina, Ohio plant will bring about an estimated annual fixed cost savings of $4 million.

VIII. S. 722 AND SECTION 211(a) OF H.R. 3398 WOULD PREVENT MISUSE OF SUBZONE STATUS BY HUFFY.

S. 722 and Section 211(a) of H.R. 3398 differ only in that Section 211(a) "sunsets" on June 30, 1986. While we prefer S. 722 as a final solution to this problem for our industry, we believe that, if Congress feels a sunset date should be enacted, the June 30, 1986, date is an appropriate one. The House Ways and Means Committee chose June 30, 1986, so that a permanent exemption can be studied at the same time that the bicycle and bicycle parts tariff schedules are due to be reviewed by Congress. Therefore, full hearings on the impact of imports on the bicycle and bicycle parts industries will be held prior to that date. Also, both the International Trade Commission and the General Accounting Office are investigating foreign trade zones and will report to the House Ways and Means Committee next year prior to oversight hearings which that Committee intends to conduct in order to review possible abuses of the zones privilege. The House Trade Subcommittee has stated that it intends to hold oversight hearings once those investigations have been completed.

IX. SUMMARY.

In summary, we urge your support of S. 722 and Section 211(a) of H.R. 3398 to give our Company, our employees, and our industry a fighting chance for survival.

WALD Exhibit I

THE DAILY STANDARD, Celina, Ohio
Monday Evening, May 16, 1983

Huffy Subzone Bid Up In Air

By SHANNON McFARLIN

Long-pending approval of a foreign trade subzone for the Huffy Corp.'s bicycle manufacturing plant in Celina is being held up in Washington by a bill introduced by U.S. Rep. Carl Perkins, D-Ky., which would block bicycle manufacturers from taking advantage of lower import duty rates on component parts.

Huffy General Counsel Bob Wieland said today from his Dayton office that approval of the subzone would allow the firm to be more competitive on the foreign market "and really would just even things up for us in the battle against foreign imports."

Approval of the subzone very probably would have a positive effect on employment at the Celina plant, Wieland said. "It's hard to predict this type of thing, of course," he said, "but it's obvious that the more successful we are, the more people can be employed in Celina, Ohio.

"There's an opportunity here for us to be more competitive. And if we can sell more bicycles, the people will benefit the most."

Huffy applied for the subzone designation to the U.S. Department of Commerce's foreign trade zones board close to a year ago, Wieland said, and its application quickly drew opposition from domestic parts manufacturers.

Introduced the first of the year by Perkins, House Resolution 657 "would preclude us from having" the subzone, Wieland said, noting that one of Perkins' "major constituents" is a bicycle parts plant.

Wieland said Huffy has received strong support from the Ohio congressional delegation — especially Rep. Tom Kindness, R-Hamilton, who testified along with Wieland last week before a House Ways and Means subcommittee on trade. "Rep. Kindness was extremely effective," he said.

In his testimony, Kindness labelled Perkins' bill "blatantly discriminatory and unfair legislation" that would "short-circuit the administrative process and deny Huffy benefits for which it would otherwise qualify."

H.R. 657 is "unwise," Kindness told the subcommittee. "Its purported purpose is to help domestic bicycle parts producers; unfortunately, it will do more harm than good to those parts producers. . .

"Unless leading companies such as Huffy can stay competitive, fewer domestic bicycles, and fewer domestic parts, will be sold. . ."

Congressional approval of the Perkins bill would circumvent the subzone designation by the foreign trade zones board, Wieland said, and if the bill is rejected "we'll still have to go through the whole application process" again.

What will happen if the subzone is not approved? "Well," Wieland said, "we'll continue operations as they are today. This is really not something that will make or break us, but it is one area of potential savings that would be denied to us and work against our needs to be competitive. . . It's one more partial solution to the problem" of foreign competition.

Kindness' aide, William McKenney, said from Washington this morning that the Perkins bill has not been "marked up" for a floor vote "and we won't know for a month" whether or not House action is forthcoming.

WALD Exhibit II

August 29, 1983 BARRON'S

Huffy Corporation N

DAYTON, OH., Aug. 25—Huffy Corporation, the leading bicycle supplier in the United States and major supplier of juvenile products, sporting goods and physical fitness equipment, announced today that sales and earnings from operations rebounded strongly in the fourth quarter ended June 24, 1983. Earnings from operations (before consideration of a net charge resulting from the previously announced closing of an Oklahoma bicycle plant and the gain on the sale of property in Azusa, California, were $3,046,000 on sales of $73,221,000. The earnings from operations represent the most profitable quarter in the company's history. Net earnings for the fourth quarter were $1,132,000, or $.23 per common share, include a $1,914,000, or $.44 per common share, net charge resulting from the Oklahoma plant closing and sale of California property. A net loss of $1,598,000, or $.40 per common share, on sales of $53,980,000 was reported for the fourth quarter a year ago.

Net sales for the year ended June 24, 1983 were $222,420,000, compared to $222,345,000 reported a year ago. The net loss for the year was $2,021,000, or $.57 per common share, compared to net earnings of $3,055,000, or $.61 per common share, achieved in fiscal 1982. The operating loss for fiscal 1983, exclusive of non-recurring items, was $107,000.

Harry A. Shaw, President and Chief Executive Officer, stated, "We are very pleased with the strong fourth quarter operating performance. The results reflect increased sales and production volume over the previous three quarters and some of the benefits realized from manufacturing cost reduction programs and other cost cutting actions taken during the past year. However, the fourth quarter operating results do not reflect any of the benefits that will be realized from the bicycle plant consolidation that occurred in fiscal 1983."

Mr. Shaw added, "Sales and earnings for the fiscal year were depressed due to a lack of consumer demand during the first half of fiscal 1983 and severe competitive pricing pressure (primarily from Taiwanese and South Korean manufacturers). The reduced demand for bicycles, combined with higher than desired inventory levels at the beginning of the year, forced us to operate our bicycle production facilities at less than 50 percent of capacity during the first six months of the fiscal year and had an adverse effect on the overall profit margins of the company."

Mr. Shaw addressed the current status of the bicycle industry by stating, "The Bicycle Manufacturers Association of America (BMA) estimates that calendar 1983 bicycle shipments will be 8.1 million units compared to a seventeen year low of 6.7 million units in calendar 1982, an increase of 21 percent. This increase has and will continue to have a favorable impact on our business. Despite a low level of demand for bicycles experienced by the entire U.S. bicycle industry in calendar 1982, we were successful in gaining market share by continuing to offer innovative quality products that represent an excellent value for our customers. Our current market share of the total United States bicycle market, which includes imports, is well in excess of 30 percent."

Mr. Shaw concluded by saying "Fiscal 1983 was a challenging period for Huffy Corporation and a year of healthy changes for the company. We took a major step in fiscal 1983 toward meeting our strategic goal of broadening our earnings base through the acquisition of Gerico, Inc., a juvenile products company. We anticipate that the juvenile products business will eventually account for 15%-20% of our total sales. The Raleigh® bicycle program initiated a year ago is progressing well and we are pleased with the initial penetration Raleigh has made in the specialty bicycle shop market segment. Our sporting goods business is also experiencing strong demand for its products. During the year, the sporting goods product line was expanded to include weight benches, rowing machines and other physical fitness related equipment.

Demand for these fitness products by consumers has increased significantly over the past few years. Also during the year, we reduced the overall fixed expense level of the company, and strengthened our financial position despite the adverse financial results. Our balance sheet is strong and we have the financial capacity and flexibility to meet our future financing needs as the company expands and grows."

HUFFY CORPORATION OPERATING RESULTS
(In Thousands)

	Fourth Quarter Ended		Fiscal Year Ended	
	June 24, 1983	June 25, 1982	June 24, 1983	June 25, 1982
Net sales	$73,221	$53,980	$222,420	$222,345
Earnings (loss) before Federal and state income taxes	$ [illegible]	$([illegible])	$([illegible])	$ 3,677
Earnings (loss) before non-recurring charge	$ 3,046	$(1,598)	$(107)	$ [illegible]
Net earnings (loss)	$ 1,132	$(1,598)	$(2,021)	$ 3,055
Earnings (loss) per common share:				
Primary	$.23	$(.40)	$(.57)	$.61
Fully diluted	$.23	$(.40)	$(.57)	$.61
Average number of shares of common stock and common stock equivalents outstanding	[illegible]	[illegible]	[illegible]	[illegible]

Contact: Barry J. Ryan, Treasurer, Huffy Corporation, P.O. Box 1204, Dayton, OH 45401.
Phone: (513) [illegible]

WALD Exhibit III

HUFFY

News Release

Please Reply to:
HUFFY CORPORATION
P.O. Box 1204
Dayton, Ohio 45401
Phone: (513) 866-6251

HUFFY ANNOUNCES
BICYCLE PLANT CONSOLIDATION
AND GAIN ON SALE OF WEST COAST PROPERTY

Dayton, Ohio, April 14, 1983 - Huffy Corporation announced today the sale of its Azusa, California property for approximately $5.1 million, resulting in an after-tax gain on the sale of approximately $2.8 million. Huffy also announced that it plans to close its Ponca City, Oklahoma bicycle plant and move the majority of the machinery and equipment to the Company's Celina, Ohio bicycle production facility. The estimated cost of closing the plant and moving the machinery and equipment is $4.4 million on an after-tax basis. The sale of the California property, as well as the closing of the Oklahoma plant and the related movement of equipment, will be reflected in the Company's fourth quarter results.

With respect to the bicycle plant consolidation, Harry A. Shaw III, President and Chief Executive Officer, stated, "It was a most difficult decision to close our Oklahoma plant in light of the effects it has on our dedicated employees and the Ponca City community which has been very supportive. However, this action is necessary to enable the Company to operate more efficiently in the future. We estimate that approximately $4 million of annual fixed costs will be eliminated because of the plant consolidation. A major factor in reaching the decision to close the Oklahoma plant was the significant increase in the production capability which has occurred at our

Celina, Ohio facility over the past three to four years. Increased productivity through robotics and other manufacturing efficiencies implemented since 1979 combined with the transfer of equipment from our Oklahoma plant will enable us to close the Oklahoma operation with only minimal effect on our total overall bicycle producing capabilities."

Mr. Shaw continued by saying, "We believe that we have dealt with the problems that contributed to our operating losses over the past year in a manner that will benefit the Company and our shareholders over the long term. We have restructured our bicycle business so that we can reduce overall operating costs and at the same time meet the growing demands of the U.S. bicycle market. We are well positioned to serve the mass merchants with our Huffy(R) brand and private label bicycles. Huffy(R) is the leading brand name in the U.S. by a better than 2 to 1 margin. We are also well positioned to serve the requirements of the specialty bicycle shops with our well known Raleigh(R) brand bicycles."

Mr. Shaw added, "Our other businesses, juvenile products and physical fitness/sporting goods, are also well positioned to meet the expected high growth in their respective markets. Gerico, Inc., our newest addition, is a leading manufacturer in the juvenile products market under the popular Gerry(R) brand name. Our physical fitness/sporting goods business is continuing to grow as a result of the introduction of new products, including weight benches, rowing machines and a new line of exercise bicycles."

In conclusion, Mr. Shaw stated, "Although the current economy has had a significant impact on Huffy Corporation, we remain financially strong and well positioned in businesses which we believe will have good future growth.

In planning for this growth, we recently restructured our sources for short term borrowings by consummating a seven year $40 million credit agreement with our major lenders: Security Pacific National Bank, Citibank, N.A., Union Bank (Los Angeles, California), and Winters National Bank and Trust Company (Dayton, Ohio). This agreement replaces the majority of our short term open lines of credit. At the present time we are not borrowing under this new credit agreement, but it provides a vehicle to finance our future working capital needs and any acquisition opportunities which may occur as the Company expands and grows."

Barry J. Ryan

Barry J. Ryan
Treasurer

/hm

STATEMENT OF ROBERT O. ZINNEN, VICE PRESIDENT, ROADMASTER CORP., OLNEY, ILL.

Mr. ZINNEN. Good morning, Mr. Chairman.

I am the executive vice president and an owner of Roadmaster Corp. Roadmaster's president is the chairman of the Bicycle Manufacturers Association. Our company is located in Olney, Ill., where we are engaged in the manufacture of a full line of quality American bicycles.

We employ approximately 1,300 people in a county where the current unemployment rate is approximately 20 percent.

I am here to testify in support of S. 722. And I might mention that Senator Percy—probably well-known to you—has introduced S. 1977, which is a companion bill to the bill that passed the House.

My comments have already been very ably made by Senator Ford of Kentucky. I don't wish to accumulate the record, because I know that succinctness is something that you seek in your day-long hearings here.

I will only say that we have opposed Huffy's application for a subzone, and vigorously, and we intend to continue our pursuit and our resistance of their attempt.

We are a distant third largest manufacturer in this industry. It's a unique industry, and we take a long-term view of our industry, and we wish to see the continuance of a viable domestic parts industry, as well as a bicycle industry. They are both linked together. They either go together, or they fall together.

We don't want bicycles to go the way of many other American industries; destroyed by foreign imports.

With that, I conclude my remarks and pass the microphone over to Mr. O'Reilly.

[The prepared statement of Robert O. Zinnen follows:]

SUMMARY OF TESTIMONY
OF
ROBERT O. ZINNEN, EXECUTIVE VICE-PRESIDENT
ROADMASTER CORPORATION

Roadmaster Corporation favors passage of S. 722 because without it, Huffy would have unfair competitive advantage over smaller U.S. bicycle manufacturers.

The real advantage to Huffy is 6-8%, not only 2% posited by Huffy.

Granting the subzone would subvert the purpose of the foreign trade zones intended by Congress to benefit exports.

The loss of U.S. jobs would be significant.

Passage of S. 722 will still give Huffy entitlement if and when it exports.

Free trade should be a two way street.

Mr. Chairman and Members of the Committee, I am Robert O. Zinnen, and I am Executive Vice-President and owner of Roadmaster Corporation. Roadmaster's President is Chairman of the Bicycle Manufacturers Association. Our company is located in Olney, Illinois where we are engaged in the manufacture of a full line of quality, American bicycles. We employ 1300 employees in a county where the current unemployment rate approximates 20%. I am here to testify in support of S. 722, a bill which would amend the Foreign-Trade Zones Act to exempt bicycle component parts, not exported, from the exemption from the customs laws otherwise available to merchandise in foreign trade zones.

We have gone on record with the Department of Commerce in opposition to the application by Huffy Corporation for foreign subzone status for its Celina, Ohio bicycle and bicycle parts manufacturing and assembly facility, as have several other smaller bicycle manufacturers such as Spiral, Scorpion, Columbia, Ross, and Schwinn. We have also supported H.R. 657, the companion bill of S. 722, which has already passed the House of Representatives in the form of section 211(a) of H.R. 3398. Passage of S. 722 would nullify the disastrous effects a free trade subzone at the Huffy Celina, Ohio plant would have on remaining U.S. bicycle and bicycle parts industries.

The United States bicycle industry is already polarized, being dominated by two giants, Huffy Corporation with 42% of the market, and Murray, Ohio with 35%. A number of smaller manufacturers share the remainder of the U.S. market, and Roadmaster is one of these.

Huffy and Murray enjoy economies of scale and, therefore, lower costs than any of the remaining manufacturers. This is not to say that smaller manufacturers are inefficient. Our facility is a 720,000 square foot single level, modern plant with state of the art technology. Our quality and consistency of manufacture are the best in the world. I only refer to Huffy and Murray having lower costs because of the economies associated with their size, not because of technology or efficiency. In this most recent recession, the U.S. bicycle market has dropped from 9 million units in 1979 to 5.2 million units in 1982, a reduction of 43%. Both of these giants because of their lower cost structures, have maintained their share of market by dropping prices below our cost levels and a question remains as to whether in some cases below their own costs. In fact, Huffy, the largest bicycle manufacturer in the world, has actually increased market share during this recession by their questionable pricing measures.

These practices have brought several of the smaller manufacturers with higher cost structures to a battle for survival. Any further advantage given either of these giants in our industry would destroy the smaller manufacturers. We would not be able to survive a Huffy foreign trade subzone. In its application for the foreign trade subzone, Huffy states that the granting of the subzone status would enable them to drop their prices by 2%. We maintain the advantage is a multiple of that, at least 6%, and it could be as high as 8%.

Unless S. 722 is passed, the inevitable result of a Huffy subzone would be the closing down of the small bicycle manufacturers and of the entire bicycle parts industry. Closing our doors with the resulting unemployment of 1300 employees would be devastating to the economy of Richland County in southern Illinois. The current high unemployment rate would sharply rise at terrible social costs to our community. Closing our doors would have a similar effect on our suppliers, the bicycle parts manufacturers, who would not only lose Roadmaster as a customer, but would lose Huffy which can use the subzone to avoid the current tariffs on imported bicycle component parts. If Huffy succeeds in its subzone application, we expect that Murray will follow thereafter. Thus, the domestic bicycle parts manufacturers will lose both Huffy and Murray to offshore manufacturers, in effect exporting 7,500 additional United States jobs.

There is no question that Huffy's intention is to use the foreign trade subzone to avoid paying the current duty on imported bicycle components which will be assembled into bicycles to be sold in the domestic market. The legislative intent behind the creation of foreign trade subzones was to stimulate exports. In this instance, the foreign trade subzone will be used not to stimulate exports but to avoid paying the tariff which has been set as a result of the multilateral trade negotiations. Congress has already suspended the duty on components that are not manufactured in the United States. The subzone will allow Huffy to go beyond the intent of Congress regarding the purpose of foreign trade zones and to upset the delicate balance which Congress has established regarding imported bicycles and imported components. It is incumbent upon Congress to prevent this abuse of an administrative process to circumvent our tariff laws.

S. 722 simply requires Huffy to continue to pay the existing duty on components they import. If Huffy has any intention of using this subzone for export, this bill would not require Huffy to pay duty on components that are actually re-exported. In this manner, Congress can maintain the current tariff balance and yet encourage the use of a subzone for exports in accordance with its legislative intent.

While S. 722 is not as satisfactory as not granting the subzone at all, you would at least maintain the current precarious state of the domestic industry including both bicycle manufacturers and component manufacturers. It would not give additional advantage to the giants, Huffy and Murray, and would give the smaller manufacturers in our industry a chance to survive.

We at Roadmaster Corporation strongly believe that the burden of proof should be on the Huffy Corporation to establish that granting of the application will not result in a net loss of domestic employment. Similarly, the application for the subzone should not be granted unless

Huffy can also show that new jobs created by the grant are not simply being transferred to Celina from areas such as Olney. Finally, Huffy should be required to show the net benefits to them from granting the application will exceed the net detriment to other bicycle manufacturers and parts manufacturers. This would include providing the mathematics of the alleged 2% price drop.

We at Roadmaster are confident in the future of the domestic bicycle industry in the United States. Under certain conditions we see a place for ourselves and other smaller manufacturers. Under the current tariff arrangement, we feel that we can continue to grow and become a vital part of that industry. But if the largest bicycle manufacturer gains an advantage through avoidance of tariffs, we have no future. The current tariffs on bicycle parts are already being reduced over a period of time through 1987. Huffy does not need the additional advantage it would get by avoiding even that tariff through the subzone status.

For these reasons, we strongly urge your passage of S. 722 which is vital to the preservation of a domestic bicycle and bicycle parts industries and the many jobs they provide.

In conclusion, I would like to state that free trade should not be a one way street. Duty rates for bicycles and components should not be lower coming into this country than they are going into Japan, Taiwan, or any other foreign country. If they are, you are putting U.S. manufacturers at a disadvantage in the world market.

STATEMENT OF TIMOTHY O'REILLY, GENERAL COUNSEL, CARLISLE TIRE & RUBBER CO., CARLISLE, PA.

Mr. O'Reilly. Good morning, Mr. Chairman.

I appreciate the opportunity to address this esteemed group. We, on behalf of Carlisle Tire & Rubber, have filed written testimony. We request that that be incorporated into the record.

Senator Danforth. You don't even have to ask.

Mr. O'Reilly. OK.

My name is Timothy P. O'Reilly. I am general counsel to Carlisle Tire & Rubber Co., the sole remaining American manufacturer of bicycle tires and tubes.

The position that we find ourselves in, being the sole remaining manufacturer, is one not unlike our brothers in the bicycle component parts industry, in that in the domestic production there are approximately one or two—I don't mean to be approximate, but it depends on what part you are talking about—one or two companies remaining who produce bicycle component parts.

We have in place an inverted tariff scheme. That is not an accident; it is something that Congress has intended. It has been in place for approximately 13 years. The effect of a grant of a subzone to Huffy would be to emasculate that inverted tariff scheme.

On a composite, bicycle component parts that are manufactured in this country come in with a tariff rate of approximately 13 percent. With the use of a subzone, as you know, a producer can elect to have duty rates assessed on component parts at the imported duty rate or the produced product rate. With bicycles, a 13-percent rate on component parts is as opposed to the completed-product rate of [illegible] percent on lightweight models, which is the bulk of the industry, or 11 percent on some of what we call heavier BMX products. The choice is obvious—they will use the completed-product rate.

The effect on an original equipment supplier such as ourselves, and we are about 70 percent an original equipment buyer with over 200 employees in Cumberland County, Pa., and over 2,000 direct employees in the industry, we would be affected because the original equipment manufacturers will necessarily source their goods abroad.

I thank you very much.

Senator Danforth. Thank you, sir.

[Mr. Timothy O'Reilly's prepared statement follows:]

STATEMENT OF TIMOTHY P. O'REILLY
GENERAL COUNSEL - CARLISLE TIRE & RUBBER COMPANY
IN SUPPORT OF H.R. 3398, Sec. 211 (a) (S.722)

Introduction

Mr. Chairman and other distinguished members of the Senate Finance Committee, and it's Subcommittee on International Trade, I submit these comments on behalf of the hundreds of employees of Carlisle Tire & Rubber Company who will be affected by the action taken on H.R. 3398, Sec. 211 (a) (S.722).

Background - Carlisle Tire & Rubber Company

Carlisle Tire & Rubber Company (Carlisle) is an operating division of the Carlisle Corporation with its manufacturing facilities located in Carlisle, Cumberland County, Pennsylvania. Presently Carlisle produces a wide variety of rubber based products such as tires for use on golf carts, lawn mowers, three-wheeled vehicles, motorcycle tires and tubes, industrial hose and bicycle tires and tubes. Presently we employ approximately 800 people in all phases of our operations. However, the number of employees which participate in bicycle tire and tube operations exceeds 200. This includes over one hundred and seventy five hourly employees who work on the bicycle tire and tube production line itself with the remainder of our bicycle operations employees performing support functions such as supervisors, warehouse personnel, sales, accounting and general administration.

Carlisle is the sole remaining American producer of bicycle tires and tubes.

STATEMENT OF TIMOTHY P. O'REILLY
GENERAL COUNSEL - CARLISLE TIRE & RUBBER COMPANY
IN SUPPORT OF H.R. 3398, Sec. 211 (a) (S.722)

H.R. 3398 (S.722) - Amendment to the Foreign Trade Zones Act

There is little question that H.R. 3398 (S.722) was introduced as a response to the application of the Huffy Corporation, through the Greater Cincinnati Foreign Trade Zone, Inc., to the Foreign Trade Zones Board for a special-purpose subzone for its Celina, Ohio manufacturing operations. This amendment if adopted would remove bicycle tires, tubes and rimstrips as produced by Carlisle, from the exemption allowed in foreign trade zones from the customs laws of the United States unless re-exported.

The net effect of the passage of this bill would be to foster the development of an export business which we understand to be the original intent of allowing foreign trade zones to be established.

Carlisle fully supports the efforts of any American bicycle manufacturer to increase their export business. However, the establishment of a foreign trade zone for the manufacturing of bicycles for domestic sales would negate the long established policy of reasonable import duties on bicycle component parts which are manufactured in America.

Simply put, a foreign trade zone provides a twofold competitive edge: Firstly, payment of the import duty on the component parts is delayed until the completed bicycle unit is shipped out of the zone; secondly, the average duty rate on the completed bike units produced and shipped out of the zone is generally lower than that which is paid on the component parts individually, including tires and tubes. This type of advantage in a highly price sensitive industry is one which cannot be enjoyed by only one company. Thus if one bicycle manufacturer obtains foreign trade zone privileges all

STATEMENT OF TIMOTHY P. O'REILLY
GENERAL COUNSEL - CARLISLE TIRE & RUBBER COMPANY
IN SUPPORT OF H.R. 3398, Sec. 211 (a) (S.722)

companies who want to remain competitive must have similar protection. If, for example, Huffy were to obtain such a status it is fair to assume that the next largest domestic producer, Murray Ohio, would likewise apply for such relief. If this were to be granted, then fully 80% of all domestic consumption of bicycles would be sold in this country without the parts thereof being subject to the full treatment of the duties as specified in customs laws of the United States. The 80% figure is based on the statement of Robert R. Wieland, Vice President and General Counsel to Huffy Corporation before the U.S. Foreign-Trade Zones Board. The figure is arrived at by allowing Huffy a 30% share of domestic consumption, Murray Ohio a 25% share, and all imports a 25% share. If we were to consider only domestically produced bicycles, again assuming Huffy and Murray Ohio had trade zone privileges, then 80% American produced bikes would be made with foreign parts not subjected to full duty treatment. This figure allowing Huffy and Murray Ohio a 40% market share each for domestically produced units.

Other domestic original equipment manufacturers would, in Carlisle's opinion, simply have to enjoy the same status or they could not compete in the domestic market and would eventually not survive.

The almost immediate result to Carlisle would be to lose most if not 100% of our original equipment business, which accounts for approximately 70% of our bicycle tire and tube sales. This reasoning is based on the well established fact that on an overall basis a bike company's gross sales price is lower if a completed bike duty rate is used on all sales as opposed

STATEMENT OF TIMOTHY P. O'REILLY
GENERAL COUNSEL - CARLISLE TIRE & RUBBER COMPANY
IN SUPPORT OF H.R. 3398, Sec. 211 (a) (S.722)

to paying duty on the individual components. If Carlisle was to lose only 50% of its present original equipment sales, the bicycle tire and tube facility would be forced to close. This would displace approximately 250 employees.

Presently tube and rimstrips are assessed a 15 percent ad valorem duty and tires a 5 percent ad valorem duty. The duty rates for completed lightweight bicycles is 5.5 percent ad valorem and 11 percent ad valorem on most other popular models. There is thus an obvious advantage on the lightweight models to use imported tires and tubes in a foreign trade zone. On the larger models the apparent evenness of the duty is more than offset by the variance in the duty rates for other component parts and the delay in payment of the duty. Thus there would be no advantage to purchase original equipment tires, tubes and rimstrips from Carlisle by a domestic manufacturer in a foreign trade zone unless Carlisle's price was significantly lower than the foreign producers.

Carlisle has consistently remained as competitive as possible. In fact in May of 1983 Carlisle reduced its prices to Huffy on an average of 18%, based on August 1981 prices, in order to meet competition mainly from Taiwan. Similar reductions have also been made on products sold other original equipment manufacturers.

In our opinion Carlisle has the most modern and efficient bike tire and tube facilities in the world. Between 1979 and 1982 we have invested over 1.2 million dollars directly into the bicycle tire and tube production facilities. Our non-union hourly employees are paid fair but not excessive wages.

STATEMENT OF TIMOTHY P. O'REILLY
GENERAL COUNSEL - CARLISLE TIRE & RUBBER COMPANY
IN SUPPORT OF H.R. 3398, Sec. 211 (a) (S.722)

Carlisle has vigorously sought to protect itself from unfair foreign competition by filing antidumping petitions against Taiwan and Korea in January of 1978, countervailing duty petitions against Taiwan and Korea in December of 1977, and an antidumping petition against Taiwan in April of 1982. All of these actions have resulted in little significant import relief despite some affirmative injury determinations. As the result of a 201 Escape Clause Petition filed by Carlisle the International Trade Commission in 1978 recommended to President Carter a program that would have increased the duties on imported bicycle tires and tubes by 10%. President Carter denied Carlisle this relief. Anyone connected with such actions knows that a tremendous amount of company effort, time and capital, goes into such import relief actions which tend to produce too little, too late.

The passage of H.R. 3398, Sec. 211 (a) (S.722) would allow time for an orderly consideration and adoption of regulations to govern foreign trade subzones while leaving in place duties on bicycle component parts which have long been considered to be reasonable. Without the passage of this bill the domestic bicycle industry could easily avoid the higher duties on imported parts by sourcing such goods overseas, all of which could very well be the end of the bicycle parts industry in America including the production of bicycle tires and tubes.

STATEMENT OF TIMOTHY P. O'REILLY
GENERAL COUNSEL - CARLISLE TIRE & RUBBER COMPANY
IN SUPPORT OF H.R. 3398, Sec. 211 (a) (S.722)

Summary

Our product is a quality product. We are an American company that has made every effort to remain competitive, aggressive and in business. If H.R. 3398, Sec. 211 (a) (S.722) is not adopted, the end result could well mean the end of the production of bicycle tires and tubes in America. To allow imported bicycle component parts to come into a foreign trade zone for use on a bicycle to be sold in America would circumvent the long established and recognized balance of trade in the industry. This could only have a severely detrimental effect on the domestic bicycle component parts industry. I urge you to vote in favor of H.R. 3398, Sec. 211 (a), (S.722).

P. O'Reilly

Timothy P. O'Reilly
General Counsel
Carlisle Tire & Rubber Company
P. O. Box 99
Carlisle, Pennsylvania 17013
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Senator Danforth. Mr. Lane, and Mr. O'Connor.

STATEMENT OF JAMES K. LANE, VICE PRESIDENT, HUFFY CORP., DAYTON, OHIO

Mr. Lane. Mr. Chairman and members of the subcommittee, my name is James K. Lane. I am vice president of quality engineering and purchashing for Huffy Corp. Huffy is America's largest producer of bicycles. Although Huffy is a modern and efficient company, the recession and rising import competition have caused it serious harm.

Business conditions have forced us to close bicycle production facilities in Oklahoma and California within the last 2 years. Our remaining bicycle production has been consolidated at Celina, Ohio.

Huffy has applied for a foreign trade subzone at its Celina, Ohio, facility to reduce the costs associated with importing bicycle parts. Section 211(a) of H.R. 3398 and its Senate counterpart, S. 722, are directed at Huffy's subzone application and effectively would deny Huffy the benefit of a subzone.

Huffy opposes this legislation because it is blatantly discriminatory and unwise.

Mr. Chairman, Huffy did not apply for a subzone in order to increase its bicycle parts imports. Huffy does not in any way want to harm its domestic parts suppliers. Huffy depends on a healthy domestic parts industry.

By the same token, without a strong domestic bicycle industry there can be no healthy domestic parts industry.

Huffy recognizes the concerns of domestic parts producers and has attempted to meet their concerns. Huffy has indicated to the Foreign Trade Zone Board's staff and to representatives of parts producers that it would accept a limitation on the use of the subzone to eliminate any incentive for Huffy to increase its bicycle parts imports.

Specifically, Huffy would be willing to limit its subzone benefits using a formula based on the average value of the bicycle parts it has imported annually over the past 5 years with adjustments made for inflation and the size of the U.S. bicycle market. For any import of parts that exceed this figure, Huffy would pay the normal duty rates.

Although some parts producers support this compromise proposal, several others do not. As Huffy has indicated on a number of occasions, we are not wedded to this particular compromise. Huffy is willing to explore other proposals that would allow it to obtain meaningful benefits from the use of the subzone while at the same time protecting the domestic parts industry.

Mr. Chairman, Huffy acted in good faith and in accordance with law when it applied for the subzone. Section 211(a) of H.R. 3398 and its Senate counterpart S. 722, however, unwisely and unjustly intrude into the application process at the Foreign Trade Zone Board. It improperly and unfairly singles out the bicycle industry, and Huffy's application in particualr, for unfavorable treatment.

We urge the subcommittee not to act favorably on this legislation, and we thank you for the opportunity to present our views.

[The prepared statement of James K. Lane follows:]

BEFORE THE U.S. SENATE
COMMITTEE ON FINANCE
SUBCOMMITTEE ON INTERNATIONAL TRADE

ORAL STATEMENT OF
JAMES K. LANE
VICE PRESIDENT OF
QUALITY, ENGINEERING AND PURCHASING
HUFFY CORPORATION

IN OPPOSITION TO S. 722 AND
SECTION 211(A) OF H.R. 3398

HUFFY CORPORATION
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OCTOBER 21, 1983

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

MY NAME IS JAMES K. LANE. I AM VICE PRESIDENT OF QUALITY, ENGINEERING AND PURCHASING FOR HUFFY CORPORATION, HEADQUARTERED IN DAYTON, OHIO. HUFFY IS AMERICA'S LARGEST PRODUCER OF BICYCLES. ALTHOUGH HUFFY IS A MODERN AND EFFICIENT COMPANY, THE RECESSION AND RISING IMPORT COMPETITION HAVE CAUSED IT SERIOUS HARM. BUSINESS CONDITIONS HAVE FORCED US TO CLOSE TWO BICYCLE PRODUCTION FACILITIES IN OKLAHOMA AND CALIFORNIA WITHIN THE LAST TWO YEARS. OUR REMAINING BICYCLE PRODUCTION CAPABILITY HAS BEEN CONSOLIDATED AT CELINA, OHIO.

HISTORICALLY, HUFFY HAS PRODUCED ITS BICYCLES IN AMERICAN FACTORIES, USING AMERICAN LABOR AND, PREDOMINANTLY, AMERICAN PARTS. UNFORTUNATELY, HUFFY MUST IMPORT A SUBSTANTIAL AMOUNT OF BICYCLE PARTS. SOME BICYCLE PARTS SIMPLY ARE NOT MADE IN THIS COUNTRY AND OTHERS ARE NOT MADE IN SUFFICIENT QUANTITY OR LACK THE SPECIFICATIONS REQUIRED TO SATISFY HUFFY'S AND ITS CUSTOMERS' DEMANDS. NEVERTHELESS, HUFFY MUST COMPETE AGAINST FOREIGN BICYCLES THAT CONTAIN SOLELY FOREIGN PARTS.

HUFFY HAS APPLIED FOR A FOREIGN TRADE SUBZONE AT ITS CELINA, OHIO FACILITY SIMPLY TO REDUCE THE COSTS ASSOCIATED WITH IMPORTING BICYCLE PARTS. THE SUBZONE APPLICATION IS PENDING BEFORE THE FOREIGN-TRADE ZONES BOARD. A SUBZONE WOULD ALLOW HUFFY TO PAY BICYCLE DUTY RATES ON IMPORTED PARTS RATHER THAN THE HIGHER BICYCLE PARTS RATE. THIS DUTY SAVINGS SHOULD ENABLE HUFFY TO PRODUCE MORE COMPETITIVELY-PRICED BICYCLES. SECTION 211(A) OF H.R. 3398 AND ITS SENATE COUNTERPART, S.722, ARE DIRECTED AT HUFFY'S FOREIGN TRADE SUBZONE APPLICATION AND EFFECTIVELY WOULD DENY HUFFY THE BENEFIT OF A SUBZONE. HUFFY OPPOSES THIS LEGISLATION BECAUSE IT IS BLATANTLY DISCRIMINATORY AND UNWISE.

MR. CHAIRMAN, HUFFY DID NOT APPLY FOR A SUBZONE IN ORDER TO INCREASE ITS BICYCLE PARTS IMPORTS. HUFFY DOES NOT IN ANY WAY WANT TO HARM ITS DOMESTIC PARTS SUPPLIERS UPON WHOM WE SO HEAVILY RELY. HUFFY DEPENDS UPON A HEALTHY DOMESTIC BICYCLE PARTS INDUSTRY FOR ITS OWN SURVIVAL. BY THE SAME TOKEN, WITHOUT A STRONG DOMESTIC BICYCLE INDUSTRY, THERE CAN BE NO HEALTHY DOMESTIC BICYCLE PARTS INDUSTRY.

HUFFY SUBMITTED LENGTHY WRITTEN COMMENTS TO THE COMMITTEE ON SEPTEMBER 9, 1983 WHICH EXPLAIN WHY A HUFFY SUBZONE SHOULD RESULT IN MORE JOBS FOR BOTH THE DOMESTIC BICYCLE PARTS AND THE DOMESTIC BICYCLE MANUFACTURING INDUSTRIES. AS INDICATED IN THOSE COMMENTS, HUFFY BELIEVES THAT ITS APPLICATION IS SOUND AND, IF APPROVED, WOULD RESULT IN BENEFITS FOR THE ENTIRE ECONOMY.

HUFFY RECOGNIZES THE CONCERNS OF DOMESTIC BICYCLE PARTS PRODUCERS AND HAS ATTEMPTED TO MEET THEIR CONCERNS. FOR EXAMPLE, HUFFY HAS INDICATED TO THE FOREIGN-TRADE ZONES BOARD STAFF AND TO REPRESENTATIVES OF PARTS PRODUCERS THAT IT WOULD ACCEPT A LIMITATION ON THE USE OF THE SUBZONE TO ELIMINATE ANY INCENTIVE FOR HUFFY TO INCREASE ITS BICYCLE PARTS IMPORTS. SPECIFICALLY, HUFFY WOULD BE WILLING TO LIMIT ITS SUBZONE BENEFITS USING A FORMULA BASED ON THE AVERAGE VALUE OF THE BICYCLE PARTS IT HAS IMPORTED ANNUALLY OVER THE PAST FIVE YEARS, WITH CERTAIN ADJUSTMENTS MADE FOR INFLATION AND THE SIZE OF THE U.S. BICYCLE MARKET. FOR ANY IMPORTS OF BICYCLE PARTS THAT EXCEED THIS FIGURE, HUFFY WOULD PAY THE NORMAL DUTY RATES.

ALTHOUGH SOME BICYCLE PARTS PRODUCERS SUPPORT THIS COMPROMISE PROPOSAL, SEVERAL OTHERS DO NOT. AS HUFFY HAS INDICATED ON A NUMBER OF OCCASIONS, WE ARE NOT WEDDED TO THIS PARTICULAR COMPROMISE FORMULA. HUFFY IS MORE THAN WILLING TO EXPLORE OTHER PROPOSALS THAT

WOULD ALLOW IT TO OBTAIN MEANINGFUL BENEFITS FROM THE USE OF THE FOREIGN TRADE SUBZONE WHILE AT THE SAME TIME PROTECTING THE DOMESTIC BICYCLE PARTS INDUSTRY. HUFFY RESTATES AGAIN ITS WILLINGNESS TO WORK WITH PARTS INDUSTRY REPRESENTATIVES TO REACH A FAIR RESOLUTION OF THIS PROBLEM.

MR. CHAIRMAN, HUFFY ACTED IN GOOD FAITH AND IN ACCORDANCE WITH LAW WHEN IT APPLIED FOR THE FOREIGN TRADE SUBZONE. HUFFY HAS ALSO ACTED TO MEET THE CONCERNS OF THE DOMESTIC PARTS INDUSTRY AND CONTINUES TO BE WILLING TO ACCEPT REASONABLE LIMITATIONS ON USE OF THE SUBZONE.

SECTION 211(A) OF H.R. 3398 AND ITS SENATE COUNTERPART, S. 722, HOWEVER, UNWISELY AND UNJUSTLY INTRUDE INTO THE APPLICATION PROCESS AT THE FOREIGN-TRADE ZONES BOARD. IT IMPROPERLY AND UNFAIRLY SINGLES OUT THE BICYCLE INDUSTRY, AND HUFFY'S APPLICATION IN PARTICULAR, FOR UNFAVORABLE TREATMENT UNDER THE FOREIGN TRADE ZONES ACT. THIS ATTEMPT TO DENY THROUGH LEGISLATION A FOREIGN TRADE SUBZONE APPLICATION IS UNPRECEDENTED. I URGE THE SUBCOMMITTEE NOT TO ACT FAVORABLY ON THIS LEGISLATION.

THANK YOU FOR THE OPPORTUNITY TO PRESENT MY VIEWS. I WOULD BE PLEASED TO TRY AND ANSWER ANY QUESTIONS.

STATEMENT OF JOSEPH F. O'CONNOR, VICE PRESIDENT, NATIONAL ASSOCIATION OF FOREIGN TRADE ZONES, WASHINGTON, D.C.

Mr. O'CONNOR. My name is Joseph F. O'Connor, Mr. Chairman. I am here representing the National Association of Foreign-Trade Zones, as its vice president and director of operations for the New Jersey Foreign Trade Zone.

The membership of the NAFTZ, the national association, numbers approximately 250 firms and/or individuals who are either grantees, operators, users, or people interested in the foreign trade zone program.

The association strongly opposes S. 722. The association believes that the Senate should reject the legislation and instruct the Senate conferees not to accept section 211(a) of H.R. 3398 when the Senate miscellaneous tariff bills are reconciled with the House legislation.

We believe this proposed legislation should be rejected because: First, there is a place in place, a procedure which was created by Congress in the development of the Foreign-Trade Zone Act—15(c) of the act, section 408.07 of the regulations—that can accomplish precisely what this proposed legislation would accomplish if adopted.

There is presently pending before the Foreign Trade Zones Board a request by the proponents of this legislation to conduct a public interest investigation under section 408.07 of the regs which the Board has yet to rule on in connection with a specific zone application. Thus, the proponents of this legislation have not exhausted the existing opportunities to remediate their concerns.

Second, the setting of what the association considers a bad precedent. This might cause any other special interest group to feel the necessity to come to Congress instead of using the established administrative procedures.

Third, and final, if I may just finish, one sentence: As a businessman, I am concerned that this legislation, S. 722, would cause doubt in the minds of prospective investors who are considering investment in the U.S. foreign trade zone program.

Thank you for the opportunity to appear.

Senator DANFORTH. Thank you, gentlemen.

[The prepared statement of Joseph F. O'Connor follows:]

STATEMENT OF JOSEPH F. O'CONNOR

Vice President, National Association of Foreign-Trade Zones

In Opposition To S.722

The National Association of Foreign-Trade Zones (the "Association") strongly opposes Senate Bill 722. The Association believes the Senate should reject this bill and instruct Senate conferees not to accept Section 211(a) of H.R. 3398 when Senate-passed miscellaneous tariff bills are reconciled with the House-passed bill.

The Association reaffirms the position stated in our letter dated September 9, 1983, to Mr. Robert DeArment, Chief Counsel, Committee on Finance.

THE ASSOCIATION

The National Association of Foreign-Trade Zones is a trade association representing approximately 250 member companies who are a part of the foreign-trade zones program. These include foreign trade zone operators, grantees, users, port authorities and supporting service companies. A major portion of these grantees and operators are instrumentalities of state, county or city governments; quasi-public agencies, e.g. port authorities; and not-for-profit corporations specifically chartered to sponsor and/or operate a specific zone in their community. The Association represents a majority of all businesses and individuals involved in foreign-trade zone activities.

You might be interested in knowing that approximately 90 percent of the firms using foreign trade zones are considered to be small businesses.

BACKGROUND ON FOREIGN-TRADE ZONES

The U.S. Congress, by passage of the Foreign-Trade Zones Act in 1934, has created foreign-trade zones and foreign-trade subzones in areas that are geographically within the boundaries of the U.S., but outside the U.S. customs territory, for the purpose of expediting and encouraging foreign commerce.

There are presently 82 foreign-trade zones in 41 states and Puerto Rico. There are 19 applications for new zones pending approval. The existing trade zones vary in size from a few thousand square feet of warehouse space to industrial parks that encompass hundreds of acres. Regardless of their size, we believe that each zone is an important ingredient in the economic development of the community in which it is located.

In recent years, the U.S. Treasury and Commerce Department have promulgated changes in foreign-trade zone regulations designed to encourage foreign investment and employment in the U.S. This policy, as expressed in the regulations of these two departments, has had the desired results. By 1982, the value of shipments through U.S. foreign-trade zones had grown to over $7 billion, and zone-related employment had increased to over 29,000. Indirect employment benefits may amount to between 60,000 and 90,000 additional jobs created. Approximately 50 percent of all merchandise moving through general purpose zones in 1982 were exported.

The practical effect of a foreign trade zone designation is that merchandise of foreign or domestic origin, when placed in a zone, is treated as if it were in foreign commerce, as opposed to domestic (U.S.) commerce. This distinction is by law and practice, a temporary condition. Once merchandise moves from a zone into the customs territory of the United States, it is subjected to all U.S. laws which govern U.S. import trade.

Because of the myriad dimensions of trade zones, the results of the Trade Zones program are apparent from several perspectives. For some 29,000 people employed by zone related firms, the Program contributes to their employment security. For these firms, the Program provides the opportunity to operate in the United States with tariff treatment equal to the treatment provided their foreign competitors. And for the communities in which zones are located, the Program is an important part of the area's economic development.

Zones And Trade Related Investment

Within the context of overall U.S. international economic interests, trade related investment in the United States has become an important dimension. As an ingredient, trade zones contribute to the development and creation of this investment activity. Trade related investment takes three general forms:

- Investment by foreign interests in U.S. based fixed assets;
- Investment by U.S. based firms done to meet foreign competition; and
- Investment by U.S. based firms done to respond to foreign opportunities.

Regardless of its nature, any fixed asset investment will be subject to a "capital budgeting" decision. The nature of this decision process will vary from company to company; all companies, regardless of whether they use "pay-back," "discounted cash flow," or other techniques, will include two factors in their decisional criteria: initial outlay and cash flow. Trade zones tend to reduce the "initial outlays" required and contribute to the magnitude and timing of "cash flow."

Examples[1/] of these three trade-related investments that use zones status are:

- Foreign based automobile companies for whom zone status has been a factor in their U.S. investments;
- U.S. based automobile companies that are using zone status as an ingredient in their efforts to meet foreign competition; and
- A major computer manufacturer, which uses a zone location to assemble computers from its world wide production base to supply (export to) the company's Latin American market.

[1/] There are many "small business" examples of trade related investment in zones. The situations cited were used because they are so well known.

S.722 Is Unnecessary

The Foreign-Trade Zones Act has never been amended in order to exclude, by statute, any product or process from trade zone status. This is because the Act specifies a procedure to address all concerns raised by the use of zone status, specifically:

- Section (15)(c) of the Foreign-Trade Zones Act of 1934: ("The Board (Foreign-Trade Zones Board) may at any time order the exclusion from the zone of any goods or process or treatment that in its judgment is detrimental to the public interest, health or safety.")
- Section 400.807 of the Foreign-Trade Zones Board's regulations (which implements Section (15)(c) of the Act).

Turning to the specific provisions of S.722, no evidence has been presented that the Association is aware of that demonstrates that the bicycle parts situation is a unique problem. Over the past 15 years, several industries (including textiles, steel, and consumer electronics) have opposed the use of foreign-trade zones for a specific manufacturing operation. This opposition (as in the bicycle parts situation) was motivated by concern over potential harm from a forecasted increase in imports, as a result of zone status. In all of these instances opposition was channeled through Section 400.807 of the Board's regulations. Pursuant to Section 400.807, the Board has addressed these concerns through public hearings and the review process and, when considered appropriate, has resolved the contentions of the parties with respect to "public interest" considerations.

In one instance ARMCO Steel challenged the Section 400.807 procedure in the federal courts. In an opinion upholding the Foreign-Trade Zones Board's decision, the U.S. Court of Appeals declared:

- The Foreign-Trade Zones Act "has delegated a wide latitude of judgment to the Foreign-Trade Zones Board to respond to and resolve the changing needs of domestic and foreign commerce through the trade zones concept. Because of the complexity and vagaries of our highly developed systems of trade, and the pressing needs for varying solutions to the problems that inevitably arise, it is imperative that the Board be permitted to experiment at the fringes of the tariff laws."
- "The Act gives the Trade Zones Board wide discretion to determine what activity may be pursued by trade zone manufacturers subject only to the legislative standard that a zone serve this country's interests in foreign trade, both export and import. Because of the nature and complexity of the problem the factors entering into a Board determination are necessarily numerous, and, it would seem incontrovertible that the Board must not be unduly hampered by judicial policy judgments that might cast doubt upon the wisdom of a particular Board decision."

If S.722 becomes law, Congress will preempt the administrative proceeding now being conducted by the Foreign-Trade Zones Board regarding the manufacture of bicycles in a foreign-trade zone and establish, in the Association's view, an unfortunate precedent making Congress the forum for adjudicating whether zone manufacturing proposals are "in the public interest."

An important element of the program's success is and has been its ability to be responsive to the changing foreign trade dimension of the U.S. economy. This ability to be responsive is a direct result of Congress, including Section 15(c) in the Foreign Trade Zone Act. This flexibility will be severely diminished if the Congress assumes the responsibility for adjudicating zone manufacturing applications.

Senator **Danforth.** Senator Bentsen.

Senator **Bentsen.** I have no questions, thank you, Mr. Chairman.

Senator **Danforth.** I have no question, either. Thank you all very much.

The next bill is S. 37. The witnesses are Mr. McGrevin and Mr. Saunders.

Mr. McGrevin.

STATEMENT OF GENE R. McGREVIN, PRESIDENT, HEALTH CARE PRODUCTS GROUP, KIMBERLY-CLARK, ROSWELL, GA.

Mr. **McGrevin.** Thank you, Mr. Chairman.

I am president of Kimberly-Clark Health Care Products Group, and we are here to demonstrate our support for Senate bill 37.

The purpose of this legislation is to obtain duty parity for disposable surgical drapes and sterile gowns at 5.6 percent ad valorem.

Our arguments in favor of this legislation are contained in our complete statement filed with the subcommittee on September 9; therefore, I would like to take this opportunity to address the opposing arguments that have been raised against us and show that they are invalid. They are not based on fact, but are real smokescreens, and cloud the key issue of this legislation which is to obtain tariff equity and promote competition among manufacturers of substantially identical goods.

And I would like to state very emphatically, Mr. Chairman, that every statement I am about to make we are prepared to substantiate with fact.

One opposing argument is that Fabric 450, a fabric manufactured by Du Pont, is 55 percent wood pulp and therefore is properly classified as "paper." Surgikos Division of Johnson & Johnson, which buys Fabric 450 from Du Pont and also manufactures some of its own Fabric 450, and assembles Fabric 450 into drapes and gowns in Mexico, contends that their finished products are 55 percent wood pulp and 45 percent polyester. Our lab tests recently showed that sometimes the polyester content is more than 50 percent and sometimes less. The January 1983 results show a sample as high as 54 percent polyester. Market price data obtained for pulp and polyester indicates that the component of chief value of Du Pont's and Johnson & Johnson's Fabric 450 is polyester. Therefore, how can the product be classified under the "paper" category?

The second argument that has been made often is that polypropylene is not biodegradable. I would like to state that we can show in any chemical pharmocopaeia that polypropylene, along with polyester, which is the component of chief value in the Fabric 450, both are biodegradable at an equally slow rate. It may take 20 years, but both products are biodegradable.

The other issue that I think is kind of interesting is the fact that prolene, which is a suture material manufactured by Ethicon, a division of J&J, is a form of polypropylene that is left inside the body cavity after an operation, to be dissolved by the body. The question is, how harmful is polypropylene, and how harmful is prolene? They both are biodegradable, as is polyester.

Another issue is that it has been stated that it is inappropriate to give away duty reductions that are subject to international tariff negotiations. Kimberly-Clark Corp. discussed this issue with the USTR and Mexican Embassy. The possibility of making this tariff reduction part of an international trade agreement is just not realistic. It isn't a big enough issue. And that was the feedback both from the Mexican Embassy and USTR.

Further, the administration has taken a no-objection position on our legislation, which is based upon a careful examination of the legislation by the International Trade Commission, the U.S. Trade Representative, Customs Service, and the Department of Commerce among others.

Another issue according to Du Pont and J&J is that disposable health care products of Fabric 450, and Kimberly-Clark's products are not substantially identical. Mr. Chairman, both of these products are disposable surgical gowns and surgical drapes sold to the same customer for the same end-use.

In addition, they are both predominantly manmade fiber.

It has also been stated that domestic U.S. operations will be hurt as the result of this legislation. The legislation will in no way change the competitive status of the domestic assembly operations in the United States for these products. About 90 percent of the market consists of 807 operations, including Johnson & Johnson and Kimberly-Clark operations, and the domestic companies are already competing at this level. Surgikos has an operation in Arlington, Tex.; we have an operation in Arizona.

Another allegation has been that there are no health-care cost-containment benefits from these products. There are. The health-care benefits are that it helps to eliminate cross-contamination, and a study done by the Du Pont Corp. called the Moylan study at Duke University proved this.

Finally, I would like to show you something that I find very inconsistent: Surgikos, who is contending to U.S. Customs that their product is paper, advertises that their products have "that Fabric 450 feeling." Is a fabric not a textile? For consistency, shouldn't it say "that paper-450 feeling?" There is a tremendous inconsistency. Also, I think if you take a look at their packaging, they are making packaging claims that their product is a "fabric"—that is, textile—and yet they claim they should be coming in under a paper duty rate.

Mr. Chairman, the real issue here I think is not the smokescreen of the arguments that have been presented by opponents of S. 37. Very briefly, it is simply unfair competition. Companies that together have over an 85-percent market share in these products have a three to five times tariff advantage over a company that has less than 5 percent.

Thank you.

Senator DANFORTH. Thank you, sir.

[The prepared statement of Gene McGrevin of Kimberly-Clark follows:]

October 20, 1983

EXECUTIVE SUMMARY OF DISPOSABLE SURGICAL DRAPES AND STERILE GOWNS BILL IN SUPPORT OF S. 37 AND H.R. 3398 Sec. 124 (formerly H.R. 1226)

KEY POINTS: This legislation seeks tariff parity at 5.6% with other disposable surgical drapes and sterile gowns. The products encompassed by this bill are restricted to surgical drapes and sterile gowns; must be manufactured of man-made bonded fiber fabric; are disposable in nature; are limited to a temporary evaluation period of five (5) years; and would only receive "duty equalization" not duty free treatment.

BACKGROUND DATA: Kimberly-Clark Corporation's disposable surgical drapes and sterile gowns of bonded-fiber fabric are currently assessed a duty rate three to five times higher than the duty paid by substantially identical disposable products comprised of paper or paper reinforced with man-made fibers. Two Customs Service rulings further this tariff disparity. The first ruling classified disposable operating room gowns consisting of up to 55% polyester and 45% wood pulp as "reinforced paper." The second indicated that, despite the component of chief value being polyester, as long as the initial base sheet is made on a papermaking machine, the result of blending such base sheet with any amount of man-made fiber is still "reinforced paper," not a textile, meaning it carries a duty rate of 5.6% ad valorem versus the current 29.1% effective rate applied to our polypropylene gowns.

We believe that it is unfair to assess one fabric a tariff three to five times that of a substantially identical competing product, thereby placing our products at an extreme disadvantage merely because the fabric does not contain a minimal amount of paper. Again, the component of chief value for both fabrics is man-made fiber, being sold to the same markets, and with the same end uses.

Kimberly-Clark's polypropylene base sheet with bacterial barrier properties is an advancement that will contribute to the well-being of patients and to cost containment by reducing hospital infection and reinfection. This base sheet is manufactured only in the U.S., with assembly of the surgical drapes and sterile gowns in Mexico, through the 807 tariff provision. The assembled drapes and gowns are then returned to the United States for sterilization and distribution.

Assembly is labor intensive and currently cannot be done cost effectively within the U.S. For this reason, and in light of health care cost containment efforts, broad philosophical statements against any U.S. tariff reductions are, in this case, illogical and destructive of additional U.S. jobs. At our Corinth, Mississippi, mill where the polypropylene base sheet is made, we have already spent more than $155 million and are employing about 400 people (150 new) following the completion of a $55 million expansion in May of 1983 which utilized some 300 construction workers at the peak. In addition, the Corporation has broken ground for construction of an additional $122 million facility in La Grange, Georgia, which will utilize about 500 construction workers by mid-1984 and some 200 mill employees by mid-1985.

In response to comments, the bill has been narrowed considerably in scope from its original proposed form. It now deals solely with a temporary "duty equalization" on certain disposable surgical drapes and sterile gowns to 5.6% ad valorem which expires in five years. This period will give Kimberly-Clark time to assess the justification for expansion of our major U.S. capital investment for manufacturing the polypropylene base sheet and demonstrate the merit of "duty equalization" for the United States. Again this year, a statement clarifying that the bill language shall not be construed to include any industrial apparel was entered into the record of the full Ways and Means Committee markup. This bill does not include any apparel other than disposable sterile gowns of bonded fiber fabric.

Presently, the exceptionally high duties paid on polypropylene disposable surgical drapes and sterile gowns do little to allay America's concerns over sky-rocketing hospital costs and inflation. Furthermore, we believe a five-year tariff reduction establishing tariff parity for disposable surgical drapes and sterile gowns will help rectify a competitive inadequacy in current tariffs.

We ask for your support for passage of S. 37 and H.R. 3398.

Written Comments Of
Health Care Products Group,
Kimberly-Clark Corporation
to the
Subcommittee on International Trade
of the
Senate Committee on Finance
on
H. R. 3398
September 9, 1983

I. INTRODUCTION.

The following written comments are filed on behalf of the Health Care Products Group of Kimberly-Clark Corporation (hereafter, "Kimberly-Clark" or the "Corporation") in support of H.R. 3398, a bill to change the tariff treatment of certain articles. Our comments are directed to Section 124 of the bill (S. 37, introduced on January 26, 1983 by Senators Cochran, Nunn and Durenberger and subsequently co-sponsored by Senators Stennis, Helms, and Symms), which would reduce temporarily the duty on certain disposable surgical drapes and sterile gowns.

Kimberly-Clark Corporation, its consolidated subsidiaries, and its equity companies are principally engaged in a single, world-wide manufacturing and marketing business. This business primarily involves the use of fibers to serve many diverse markets. The Corporation's products are grouped into three major classes: Consumer and Service; Newsprint, Pulp and Forest Products; and Paper and Specialties.

Products in the Consumer and Service Class, the largest of the three classes, include facial tissue, bathroom tissue, feminine napkins and tampons, disposable diapers, and household towels sold under a variety of trademarks including KLEENEX® KOTEX®, NEW FREEDOM®, DELSEY® and HI-DRI®. This class also includes products for health care, such as disposable hospital gowns, packs, and accessories; and industrial wiping markets, as well as materials sold to others for conversion.

II. PURPOSE OF SECTION 124 of H.R. 3398.

The rationale for seeking a temporary reduction in duties for disposable surgical drapes and sterile gowns of bonded-fiber fabric is to remedy a significant tariff inequity. Disposable hospital gowns and drapes predominantly of paper, or paper reinforced with man-made fibers, are classified in Tariff Schedules of the United States ("TSUS") item 256.8780 with an applicable duty rate of 5.6% *ad valorem*. Yet, disposable surgical drapes and sterile gowns predominantly of bonded-fiber fabric (man-made fiber) are classified in TSUS items 389.6265, 379.9601 (formerly 380.8407) and 383.9205 (formerly 382.8131), and are subject to duty rates three to five times higher. Currently, 389.6265 (drapes) is assessed a duty rate of 16¢ per pound plus 13% ad valorem, and the duty rate applied to 379.9601 and 383.9205 (gowns) is 16¢ per pound plus 24% ad valorem.

Section 124 of H.R. 3398 temporarily reduces the rate of duty on disposable surgical drapes and sterile gowns comprised of bonded-fiber fabric to a level of tariff parity with other disposable surgical drapes and sterile gowns comprised of polyester, nylon, polyethylene, polypropylene, and wood pulp combinations. The majority of producers of these substantially identical disposable products or base sheet materials, which producers include DuPont and Johnson & Johnson, currently pay 5.6% ad valorem on value added, while Kimberly-Clark Corporation pays duties three to five times this amount, and we are informed that this is five to eight times the 1982 International Trade Commission average tariff collected for all free and dutiable imports of 3.6%.

III. DESCRIPTION OF SECTION 124 OF H.R. 3398.

Since the original introduction of this tariff equalization measure nearly two years ago, a number of changes have been made to the language to significantly narrow its scope. Section 124 now includes only disposable surgical drapes of bonded-fiber fabric contained in TSUS items 389.6265, and disposable sterile gowns of bonded-fiber fabric contained in TSUS items 379.9601 (men's or boys') and 383.9205 (women's and girls'). The general apparel categories for such items as coats, shirts, suits, trousers, and slacks, of man-made fibers [379.9501 (men's) and 383.9005 (women's)] are not included in Section 124.

Section 124 provides for a duty reduction to 5.6% ad valorem which will expire in five years. The five-year term was selected to provide time for Kimberly-Clark to assess the success and effectiveness of our major capital investment for the manufacture of the polypropylene base sheet. We believe this trial period will demonstrate that the reduction will have a favorable effect on U.S. industry and jobs by expanding U.S. component fabric production facilities, raw material suppliers and other supporting operations.

Kimberly-Clark has already spent in excess of $100 million for the construction of our Corinth, Mississippi mill which manufactures the polypropylene base sheet for these products. Since the completion this year of the mill's $55 million expansion, the mill now employs more than 325 people, an additional 75 employees since last year. Further, the

Corporation has moved forward on its commitment to invest an additional $120 million to build another U.S. polypropylene base sheet facility in LaGrange, Georgia. The growth and success of our Health Care business will affect our long-range plans for the LaGrange facility. The Corporation needs several years to evaluate the performance of the product and to establish a reasonable return on these initial investments. Tariff parity with the rest of the disposable surgical drape and sterile gown market for five years would strongly assist the Corporation in providing a fair test for this evaluation.

The Multilateral Trade Negotiation ("MTN") final staged tariff reduction will occur January 1, 1987.* Assuming this proposed legislation is enacted for the proposed 5 year term, then in 1988, the 5.6% tariff rate applicable to our products would automatically increase if Congress decides against

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*

TSUS #	1983 Tariff Rate	1987 Tariff Rate
256.8780	5.6% ad val.	5.6% ad val.
379.9601	16¢ per lb + 24% ad val.	17% ad val.
383.9205	16¢ per lb + 24% ad val.	17% ad val.
389.6265	16¢ per lb + 13% ad val.	9% ad val.

(See also Attachment C)

continuing the temporary reduction. The 1987 final MTN implementation rates of 9% and 17% for surgical drapes and sterile gowns, respectively, would then be applicable to Kimberly-Clark's products. Thus, even after the implementation of all MTN staged reductions, Kimberly-Clark would still pay for its disposable polypropylene surgical drapes and sterile gowns, duties equal to 160% and 300%, respectively, of the duties paid by medical converters of polyester fabrics manufactured by DuPont and others.

IV. DESCRIPTION OF THE U.S. CUSTOMS RULING ENABLING DISPOSABLE HOSPITAL PRODUCTS, WHOSE COMPONENT OF CHIEF VALUE IS MAN-MADE FIBER, TO ENTER THE U.S. AT 5.6% AD VAL. AS REINFORCED PAPER.

Although, as discussed above, Kimberly-Clark's products are substantially identical to those of its competitiors, Kimberly-Clark has found it necessary to seek a legislative solution because it is unable to fit within existing Customs Service rulings. The Customs Service has issued two rulings which classify a competitive fabric as "reinforced paper," although the "reinforced paper's" component of chief value is polyester. The effect of these rulings is to treat comparable competitive products with identical end uses very differently.

These rulings, numbered 027919 (July 6, 1973) and 055364, (February 19, 1980), classify disposable operating room gowns consisting of up to 55% polyester and 45% wood pulp as "reinforced paper," importable at 5.6% ad valorem. The first ruling indicated that when a layer of tissue paper produced from wood pulp on a standard paper-making machine and a layer of polyester mat are entangled by pressure from sprayed water, the resulting base sheet is reinforced paper. Interestingly enough, laboratory testing indicates that a layer of finished paper, manufactured on a paper-making machine, is not essential to the production of this particular product. Pulp fibers have been found to be substitutable. Thus, it appears that one of the key reasons for including a sheet of paper in the process is to be able to state that a paper-making machine was used in the process, ignoring the fact that the majority of the process involves textile machinery.

The second ruling was a response to a request for internal advice on the first ruling from the District Director of Customs in El Paso, Texas. The District Director questioned the logic of the first ruling and indicated that the component of chief value was polyester, thus classifying the product as man-made fiber apparel. He also indicated that only the initial paper sheet, and not the entire finished base sheet, was made on a conventional paper-making machine. Customs responded that the component of chief value rule was irrelevant because reinforced paper is an "eo nomine" (describing a product by name) classification provision. Secondly, Customs responded that "[i]t is sufficient that the paper used in producing the reinforced paper first was made on a standard paper-making machine without modifications" for the entire finished base sheet to be classified as reinforced paper. Thus, in effect, Customs has indicated that the fact that the component of chief value of fabric is polyester is irrelevant, and that so long as the initial base sheet is made on a paper-making machine, the result of blending the base sheet with any amount of man-made fiber is reinforced paper, not a textile, and carries a duty rate of 5.6% ad valorem. This ruling ignores the fact that the component of chief value is polyester and that, in fact, the product is a textile reinforced with paper rather than a paper reinforced with textile or "reinforced paper."

We are not before this forum to find error with the Customs Service rulings but, rather, to point out that, as a result of the Customs Service's rulings, one type of fabric is assessed a tariff one-fifth that of a substantially identical competing product. Thus, merely because our fabric does not contain a minimal amount of paper made on a paper-making machine, this ruling places our Health Care Products Group at a very substantial disadvantage. The component of chief value for both fabrics is man-made fiber and the production process, excluding manufacture of the paper, is a textile process for both. The finished products have the same end uses and are sold to the same markets.

Kimberly-Clark's 100% polypropylene base sheet has demonstrated in laboratory testing such desirable characteristics as low lint, effective bacterial barrier properties, good fabric breathability and drapability, and minimal likelihood of supporting flame. Our polypropylene base sheet is a desirable product advancement that will contribute to the well-being of both the patient and the surgical team and to hospital cost containment by helping to reduce infection and reinfection. Illogical application of duty rates should not be used to prevent this product from reaching hospitals throughout the U.S. at a price comparable to other disposable surgical drapes and sterile gowns.

V. ADVERTISING CLAIMS FOR ARTICLES OF "SONTARA" AND "FABRIC 450," INCLUDE REFERENCES TO FABRIC AND CLOTH, AND PATENTS FOR PRODUCTION OF SONTARA AND FABRIC 450 DESCRIBE A TEXTILE PROCESS.

A review of current advertising and related literature indicates that marketers of disposable hospital products of

"Fabric 450" and "Sontara," in chief value of polyester, frequently allude to their products as "linen-like" and possessing the "characteristics of cotton" and "comfort of cotton." Thus, these companies are representing to the Customs Service that their products are paper but are marketing the same products as cloth.

Johnson & Johnson's July 9, 1976 submission to the Food and Drug Administration for clearance of Barrier Drapes contains the following references:

> These drapes are the disposable cloth-like sterile materials arranged about a body part preparatory to operation or examination . . . Fabric 450 is a spun-laced, nonwoven cloth-like fabric . . . [Emphasis added.]

In addition, Fabric 450 is referred to as "fine-meshed fabric," "nonwoven, close-textured material," and "cloth-like fabric" in a variety of Johnson & Johnson's product catalogs. Even the name "Fabric 450" connotes cloth rather than reinforced paper. The referenced advertising materials are appended as Attachment A.

DuPont's 1982 annual report, on page 11, refers to "Sontara," classified by Customs as a reinforced paper, under the heading of "Spunbonded and Spunlaced Products". This title reference pertains entirely to textiles, not paper.

Our literature search also revealed that DuPont's patents indicate that the machinery used to produce Sontara and Fabric 450 is intended to manufacture textiles. This is evidenced in the titles of the patents, the stated objectives of the inventions, and in the teachings and claims. An example is U.S. Patent 3,485,706, issued in December of 1969. The title of this patent is: "Textile-like Patterned Nonwoven Fabrics and Their Production." The stated objective of the process is ". . . to convert the layer (of fabrics) directly into coherent, highly stable, strong nonwoven fabrics which resemble many textile fabrics prepared by conventional process steps such as mechanical spinning and weaving."

The patents also demonstrate that wood pulp is not essential to the process. The majority of the process patents and material patents address 100% textile fiber structures (i.e., no paper fibers). No examples are found of 100% paper-making fiber (i.e., wood pulp) structures. Where wood pulp content is discussed and specified, it is specified at less than 100%. When pulp fibers are used, they are used to reinforce the textile fiber matrix or to reduce its cost.

Thus, although Johnson & Johnson and DuPont allege for purposes of Customs classification that Sontara and Fabric 450 products are really reinforced paper, Sontara and Fabric 450 surgical drapes and sterile gowns are being marketed as cloth or fabric. Such tactics underscore the need for Congress to provide an equalization of tariffs and an equal ability to compete. It is simply unfair for these competitor companies to be allowed to import disposable surgical drapes and sterile gowns, in chief value of polyester, as articles of reinforced paper with a tariff of 5.6% and for Kimberly-Clark to pay three to five times this amount for the identical products.

VI. DESCRIPTION OF THE MANUFACTURING PROCESS OF POLYPROPYLENE GOWNS AND DRAPES.

Kimberly-Clark's polypropylene base sheet is manufactured wholly within the U.S. Polypropylene pellets, supplied by domestic producers, are poured into a hopper, and then melted, and pumped through extruders. Fine fibers exit the extruders and are collected as an unbonded mat on a forming wire. A calendar is used to thermally bond several layers together, a process which is typical of paper-making. The result is a bonded-fiber fabric. We would like to emphasize that no spinning or weaving, in the traditional sense, characteristic of textile manufacturing is involved in the process.

VII. DESCRIPTION OF THE RELEVANT MARKET.

The bill, in its current form, will not change the competitive status of domestic assembly operations for disposable surgical drapes and sterile gowns. We would estimate that the 5% of the total market that totally assembles disposable surgical drapes and sterile gowns in the U.S. employs less than 200 persons in assembly operations. This 5% of the market, consisting of two companies, has historically faced competition from disposable surgical drapes and sterile gowns re-entering the U.S. at a 5.6% *ad valorem* duty rate, and will continue to do so.

The assembly of disposable surgical drapes and sterile gowns is labor intensive and the majority of manufacturers cannot cost-effectively have the assembly performed in the United States. Manufacturers are seeking methods to minimize costs in order to cooperate with the health care cost containment efforts and to reduce the effect of inflation on their businesses.

A chart is attached hereto as Attachment B, which sets forth estimates of the approximate market shares, product components, and tariffs of the companies comprising the disposable surgical drape and sterile gown market. The chart indicates that Kimberly-Clark generally pays duties three to five times higher than our competitors for entry of substantially identical products. It is our belief that a reduction of the currently applicable duty rates of 16¢ per pound plus 13% *ad valorem* and 16¢ per pound plus 24% *ad valorem* for surgical drapes and sterile gowns, respectively, to 5.6% *ad valorem* will place no greater competitive burden on totally intra-U.S. competitors than already exists. They have historically competed with products entering the U.S. at 5.6% *ad valorem* and they will continue to do so.

VIII. CONCLUSION.

Kimberly-Clark believes that a temporary tariff reduction establishing tariff parity for disposable surgical drapes and sterile gowns will help rectify a competitive inadequacy in current tariffs, will enable smaller health care businesses like Kimberly-Clark's Health Care Products Group to be more effective competitors, and will further the nation's goals of hospital cost containment.

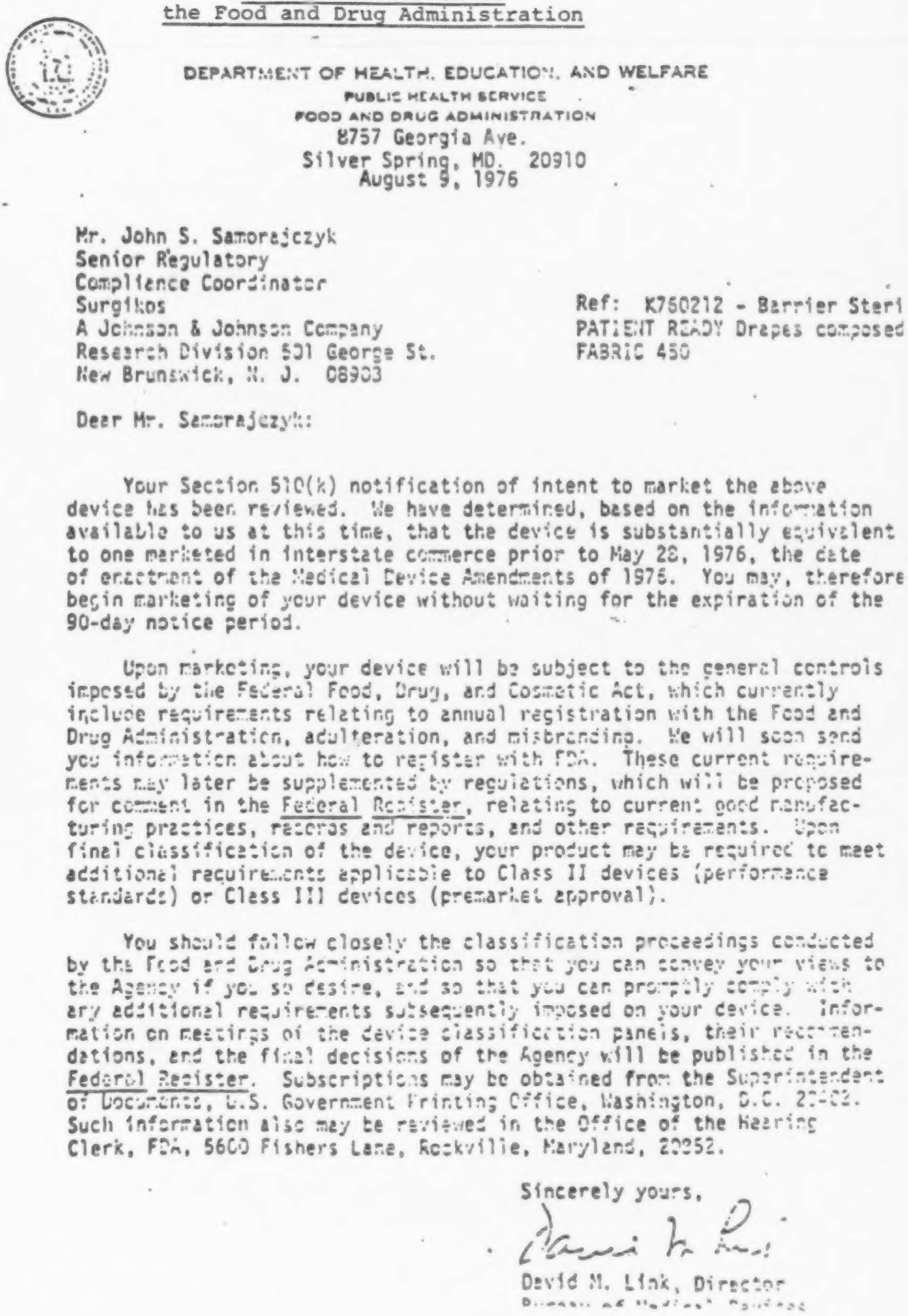
We believe a five-year term will provide sufficient time to evaluate capital investment potential for new U.S. facilities. If we are better able to compete as a result of duty equalization, the U.S. component fabric production facilities, raw material suppliers, and other supporting operations will benefit by increased sales and expanded labor forces because the base sheet components are all manufactured in the U.S.

We also note for the record that the Administration recognized that this tariff equalization measure is not amenable to multilateral or bilateral trade negotiations, resulting in a "no objection" position on Section 124 of H.R. 3398 (H.R. 1226 during the hearings before the Subcommittee on Trade of the House Committee on Ways and Means).

Kimberly-Clark urges favorable consideration of Section 124 and passage of H.R. 3398 as soon as possible.

Attachment A

510(k) Submission to the Food and Drug Administration



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
PUBLIC HEALTH SERVICE
FOOD AND DRUG ADMINISTRATION
8757 Georgia Ave.
Silver Spring, MD. 20910
August 9, 1976

Mr. John S. Samorajczyk
Senior Regulatory
Compliance Coordinator
Surgikos
A Johnson & Johnson Company
Research Division 501 George St.
New Brunswick, N. J. 08903

Ref: K760212 - Barrier Steri
PATIENT READY Drapes composed
FABRIC 450

Dear Mr. Samorajczyk:

Your Section 510(k) notification of intent to market the above device has been reviewed. We have determined, based on the information available to us at this time, that the device is substantially equivalent to one marketed in interstate commerce prior to May 28, 1976, the date of enactment of the Medical Device Amendments of 1976. You may, therefore begin marketing of your device without waiting for the expiration of the 90-day notice period.

Upon marketing, your device will be subject to the general controls imposed by the Federal Food, Drug, and Cosmetic Act, which currently include requirements relating to annual registration with the Food and Drug Administration, adulteration, and misbranding. We will soon send you information about how to register with FDA. These current requirements may later be supplemented by regulations, which will be proposed for comment in the Federal Register, relating to current good manufacturing practices, records and reports, and other requirements. Upon final classification of the device, your product may be required to meet additional requirements applicable to Class II devices (performance standards) or Class III devices (premarket approval).

You should follow closely the classification proceedings conducted by the Food and Drug Administration so that you can convey your views to the Agency if you so desire, and so that you can promptly comply with any additional requirements subsequently imposed on your device. Information on meetings of the device classification panels, their recommendations, and the final decisions of the Agency will be published in the Federal Register. Subscriptions may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Such information also may be reviewed in the Office of the Hearing Clerk, FDA, 5600 Fishers Lane, Rockville, Maryland, 20852.

Sincerely yours,

David M. Link, Director
Bureau of Medical Devices

Attachment A

SURGIKOS
A Johnson-Johnson COMPANY
Research Division
501 George St.
New Brunswick, N.J. 08903

July 9, 1976

Registration and Device Listing Staff
(HFK-124)
Division of Compliance
Bureau of Medical Devices & Diagnostic Products
Food and Drug Administration
8757 Georgia Avenue
Silver Spring, Maryland 20910

"510(K) NOTIFICATION"

We are hereby notifying the Food & Drug Administration of our plans to introduce the following devices:

NAME OF DEVICES:

Surgikos - BARRIER* Sterile PATIENT READY* Drapes composed of FABRIC 450* (These drapes are the disposable cloth-like sterile materials arranged about a body part preparatory to operation or examination.)

PROPOSED CLASSIFICATION:

Drapes have a proposed classification of Class II by the General Hospital and Personal Use Panel and we concur with this classification.

SUBSTANTIAL EQUIVALENCE:

Drapes currently manufactured and distributed by Johnson & Johnson are Kaycel fabric. Kaycel is a synthetic scrim (yarn) [redacted] to render the fabric substantially repellent.

We plan to introduce drapes manufactured from FABRIC 450*. FABRIC 450* is a spun-laced non-woven cloth-like fabric

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Attachment A

made from a [redacted] to render the fabric substantially repellent. We have manufactured and distributed surgical gowns of FABRIC 450* for three (3) years.

We feel that FABRIC 450* drapes are substantially equivalent to Kaycel fabric drapes with regard to safety and effectiveness in that they both have essentially the same physical attributes, the difference being that FABRIC 450* possesses a unique, esthetically pleasing softness.

ADVERTISING & LABELING:

Advertising and labeling for the FABRIC 450* drapes will be essentially the same as that currently in use for the Kaycel Drapes except that the FABRIC 450* drapes will bear the statement, "With FABRIC 450*".

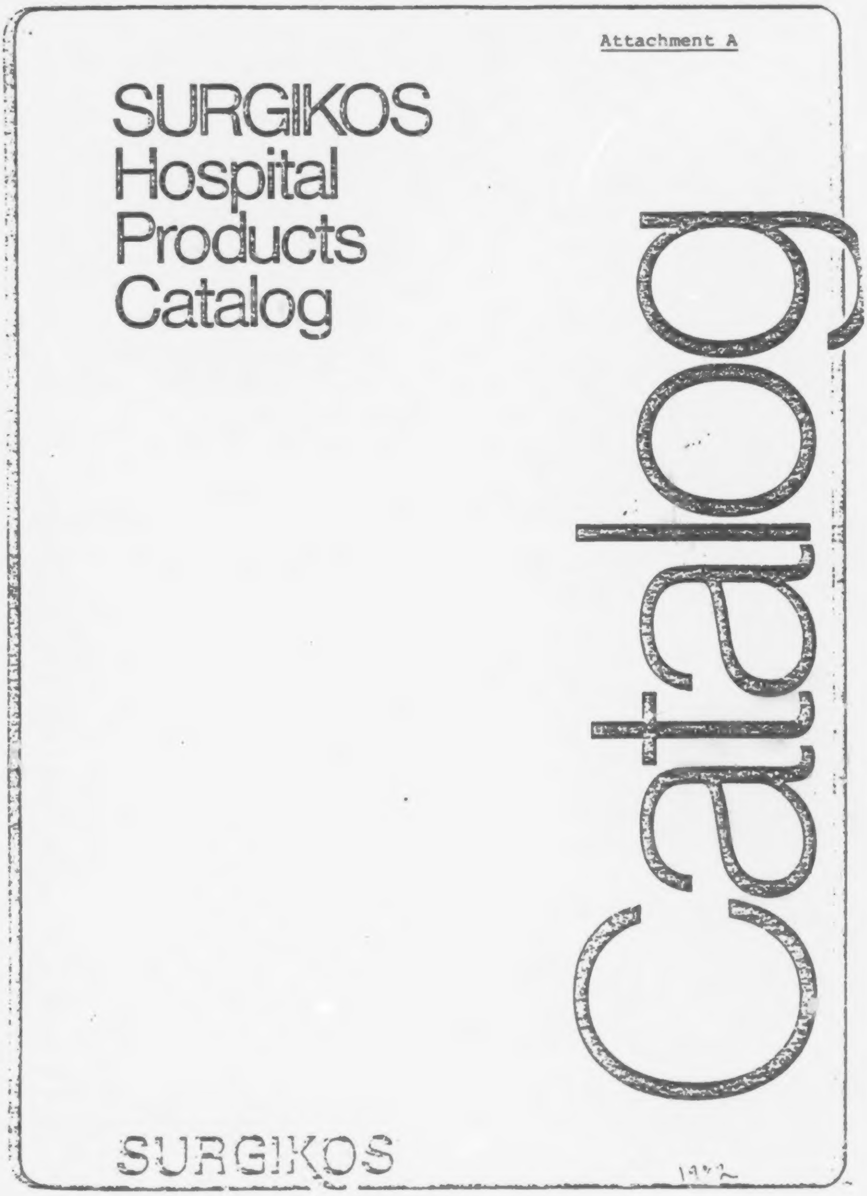
Very truly yours,

John S Samorajczyk

John S. Samorajczyk
Senior Regulatory
Compliance Coordinator

JSS:mt

* A Trademark of Johnson & Johnson



Attachment A

SURGIKOS
Hospital Products Catalog

Catalog

SURGIKOS

1972

Attachment A

BARRIER* GOWN MATERIALS

SURGIKOS has invested heavily in the development of surgical gown fabrics that combine the superior protective properties of single-use materials with the comfort and handling qualities of linen. BARRIER* Gowns utilize a unique combination of materials to achieve this result.

FABRIC 450*

FABRIC 450* achieves an optimal balance between efficacy and comfort for the surgical team.

Efficacy

Surgical gowns are designed to prevent bacterial migration into the sterile field, thus reducing risk of infection. However, this function depends on materials that effectively resist penetration by fluids and dry particles, which are excellent vectors for bacteria. ✓

As fluids strike FABRIC 450* they bead and run off. Study after study, both in vivo and in vitro, have proved that FABRIC 450* effectively repels fluids and that its microporous structure eliminates risk of dry particle penetration. In contrast, standard linen draping material readily allows fluid strike-through and performs poorly against dry particles such as skin sheddings.

Comfort and Handling

If you close your eyes, then take a piece of linen draping material in one hand and a piece of FABRIC 450* in the other, you'll find it hard to tell the difference. FABRIC 450* is that soft, pliable and quiet. High breathability also makes FABRIC 450* comfortable to wear for long periods, and it's strong enough to withstand the stress of today's surgical procedures.

REINFORCEMENT MATERIALS

Various BARRIER Gowns are reinforced in the critical areas to prevent strike-through during procedures with high fluid volume. The latest reinforcement introduced by SURGIKOS is a lightweight and impervious laminate incorporated into gowns such as the BARRIER Extra Protection Surgical Gown and BARRIER Ultra Protection Surgical Gown (Figure 1).

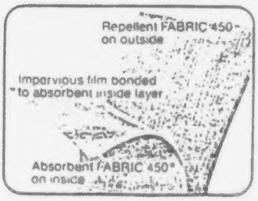
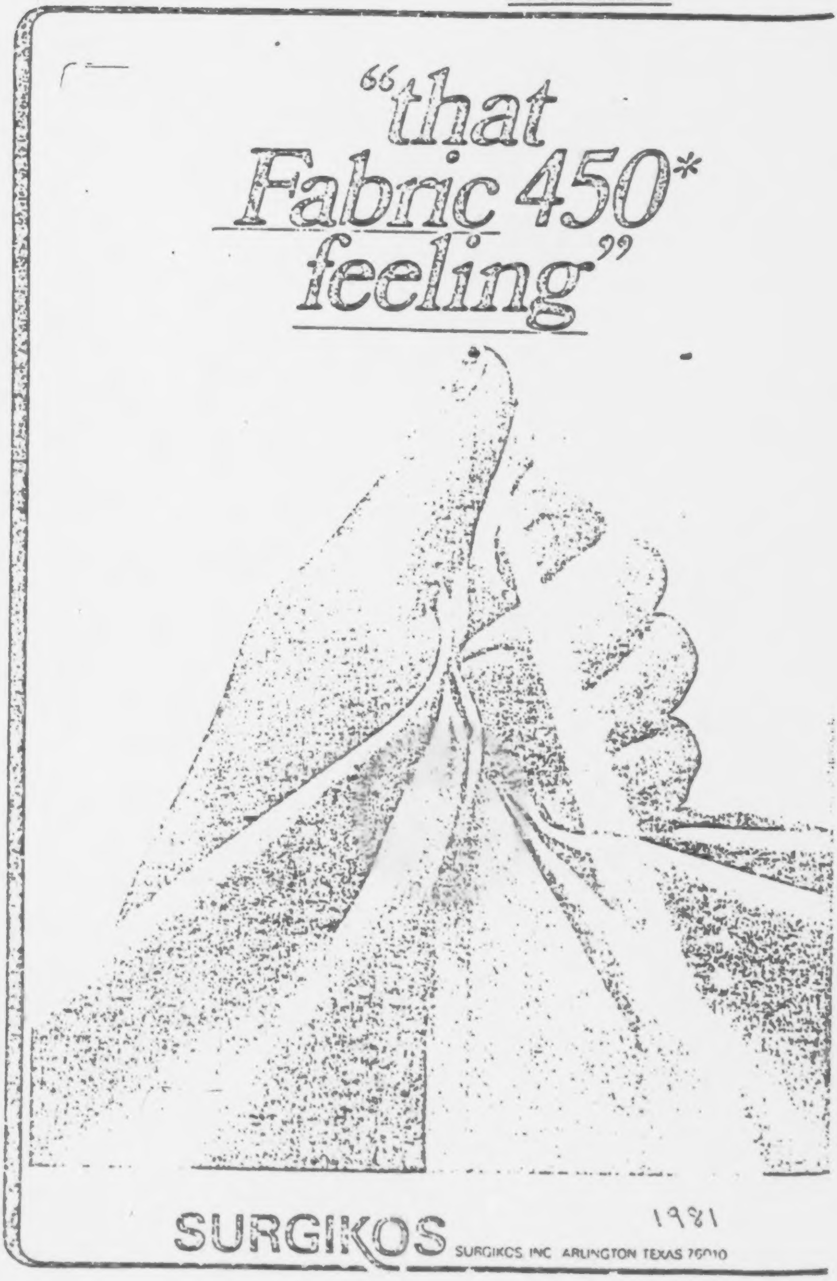

Repellent FABRIC 450* on outside
Impervious film bonded to absorbent inside layer
Absorbent FABRIC 450* on inside

Figure 1. New impervious reinforcement in BARRIER Extra Protection and Ultra Protection Gowns

1982

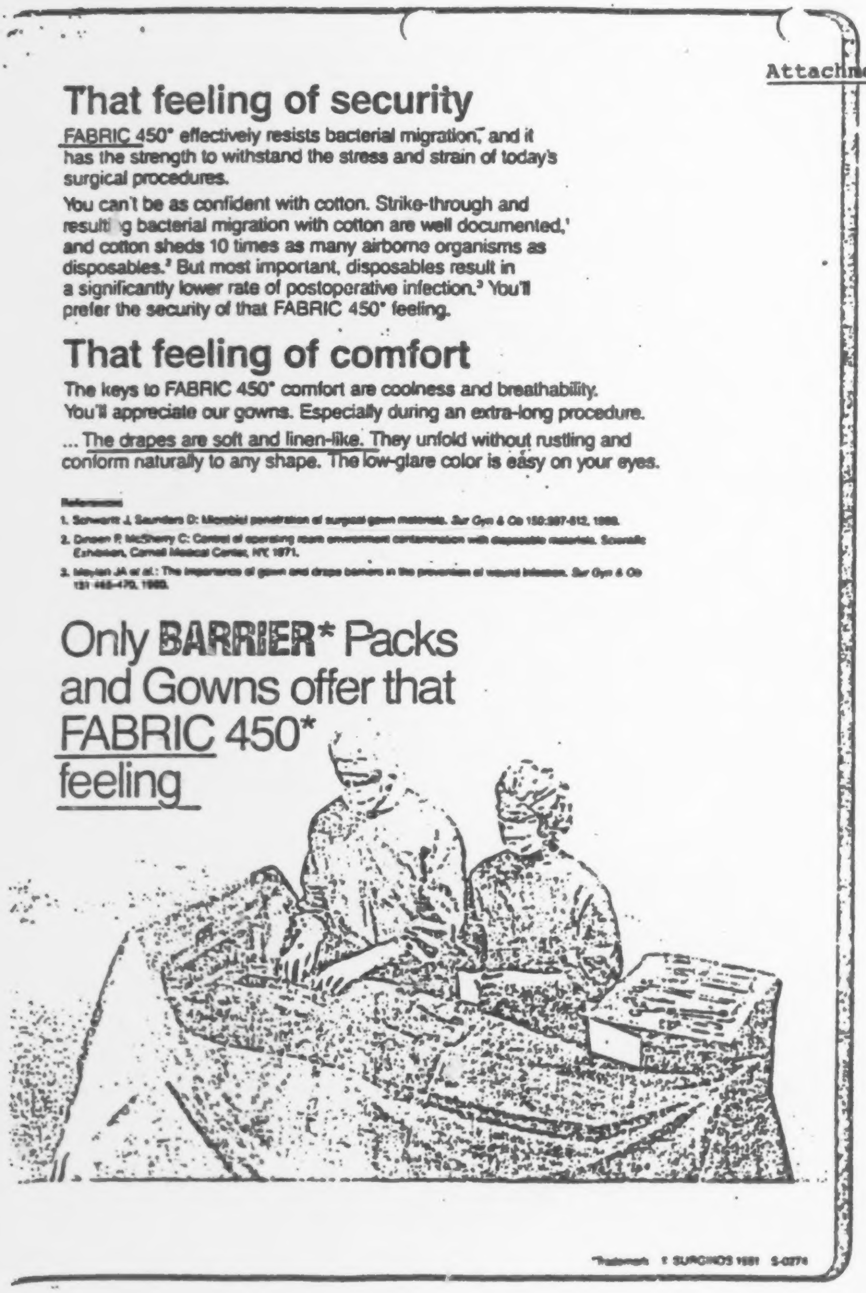
*Trademark

Attachment A


"that Fabric 450* feeling"
SURGIKOS
SURGIKOS INC ARLINGTON TEXAS 76010

1981

Attachment A



That feeling of security

FABRIC 450* effectively resists bacterial migration, and it has the strength to withstand the stress and strain of today's surgical procedures.

You can't be as confident with cotton. Strike-through and resulting bacterial migration with cotton are well documented,[1] and cotton sheds 10 times as many airborne organisms as disposables.[2] But most important, disposables result in a significantly lower rate of postoperative infection.[3] You'll prefer the security of that FABRIC 450* feeling.

That feeling of comfort

The keys to FABRIC 450* comfort are coolness and breathability. You'll appreciate our gowns. Especially during an extra-long procedure.

... The drapes are soft and linen-like. They unfold without rustling and conform naturally to any shape. The low-glare color is easy on your eyes.

References

1. Schwartz J, Saunders D: Microbial penetration of surgical gown materials. *Sur Gyn & Ob* 150:507-512, 1980.
2. Dineen P, McSherry C: Control of operating room environment contamination with disposable materials. Scientific Exhibition, Cornell Medical Center, NY, 1971.
3. Moylan JA et al.: The importance of gown and drape barriers in the prevention of wound infection. *Sur Gyn & Ob* 151:465-470, 1980.

Only **BARRIER*** Packs and Gowns offer that FABRIC 450* feeling

*Trademark © SURGIKOS 1981 S-0274

1981

Attachment A

BARRIER* PROCEDURAL PACKS

The Procedural Side

BARRIER Procedural Packs meet specific surgical needs. For each discipline there's a pack that includes drapes and gowns. *Plus* many packs contain extras to boost efficiency—like non-slip instrument pads, sponges, cord holders, suction tips and tubing, BARRIER Incise Drapes, BARRIER Impervious Stockinets, BARRIER Tape Strips, DISCARD-A-PAD* Sharps Disposal Systems, and SURGIKOS* Electro-Surgical Tip Cleaners.

Promoting proper technique is the essence of BARRIER design from the way a pack opens to how the drapes unfold.

The Safety Side

Our exclusive FABRIC 450* and DRISITE* Fabric Reinforcement reduce the risk of infection by isolating and protecting the surgical team and the patient. FABRIC 450* provides more than security; it's soft and cool to wear, and as conformable as linen. Around the incision site, absorbent and impervious DRISITE controls run-off and prevents strike-through.

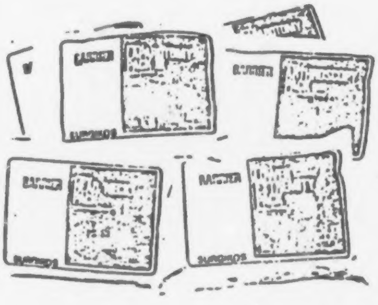
The unique folds of the overwrap/tablecover, gowns, and drapes facilitate aseptic handling. And the need to open only one package per procedure presents less risk of contamination than when several packages must be opened.

The Cost Side

When BARRIER Procedural Packs reduce draping time, the next case can start sooner. Our packs also spare you a lot of record keeping by establishing a single draping cost per procedure and simplifying inventory control.

BARRIER PROCEDURAL PACKS

Surgical Discipline	Code	Pack
Eye, Ear, Nose, Throat	1282	BARRIER Head-Neck Pack
	1243	BARRIER Laparotomy Pack III
General Surgery	1247	BARRIER Abdominal Pack
	1248	BARRIER General Surgery Pack
Gynecology	1252	BARRIER Laparoscopy Pack
	1253	BARRIER Gynecology Pack I
	1254	BARRIER Gynecology Pack II
	1257	BARRIER Gynecology Pack
Obstetrics	1231	BARRIER Obstetrical Pack
	1234	BARRIER Delivery Room Pack
rthopaedic	1290	BARRIER Lower Extremity Pack
	1291	BARRIER Hip Pack
	1262	BARRIER Ortho Minor Pack
	1263	BARRIER Arthroscopy Pack
ology	1223	BARRIER Cystoscopy Pack III
asic Packs	1276	BARRIER Basic Pack
	1285	BARRIER Basic Pack III
	1284	BARRIER Set Up Pack II
	1297	BARRIER Minor Pack



*Trademark © SURGIKOS 1981 S-0277

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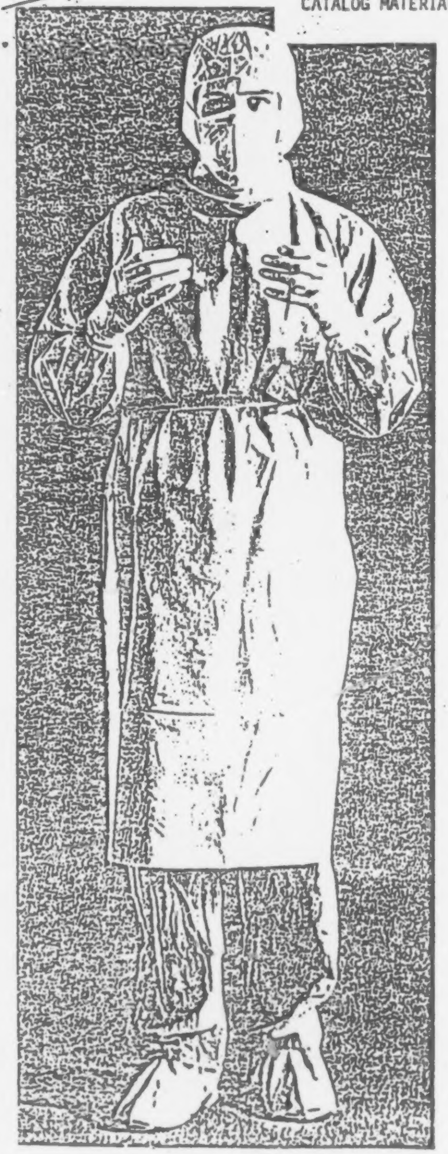
JOHNSON & JOHNSON BARRIER*
CATALOG MATERIAL, DATED 1974

Attachment A



BARRIER*-the effective surgical gown

The BARRIER Surgical Gown does what is was designed to do. It reduces the risk of spreading bacteria from a septic to an aseptic zone.

The advanced design BARRIER material reduces the risk of infection in two ways:

(a) Moisture-repellent fabric prevents the soak-through of fluids and the accompanying migration of microorganisms.

(b) The tightly-textured, nonwoven fabric reduces airborne bacteria by more effectively containing shed skin particles.

In addition, the BARRIER Surgical Gown provides these benefits to the surgical team:

- Soft, supple material is cool and comfortable even during prolonged procedures.
- Fine, even, double-needle stitching in the sleeve holds consistently under stress.
- BARRIER Gowns free laundries from processing, mending and autoclaving while providing surgeons and nurses with new, lightweight, attractive gowns, guaranteed sterile, for each surgical procedure.

* Trademark of Johnson & Johnson

ATTACHMENT B

Revised August 26, 1983

Market Share	Company	Components of Hospital Drape and Gown Products	Assembly Location	TSUS Item #	1983 Tariff Rate
42%	American Converters (Division of American Hospital Supply Corp.)	1) SONTARA -- 45-55% polyester, 55-45% wood pulp	Mexico	256.8780	5.6% ad val.
		2) REGARD/KAYCEL -- 95% wood pulp, 5% nylon scrim	Mexico	256.8780	5.6% ad val.
		3) DEXTER -- 0-50% polyester, 50-100% wood pulp	Mexico	256.8780	5.6% ad val.
		4) TYVEK -- 100% spunbond polyethylene	Mexico	379.9601	16¢ per lb + 24% ad val.
				383.9205	16¢ per lb + 24% ad val.
25%	Surgikos Inc. (Division of Johnson & Johnson)	1) FABRIC 450 -- 45-55% polyester, 55-45% wood pulp	Mexico	256.8780	5.6% ad val.
12%	Procter & Gamble	1) BOUNDARY (FABRIC III) -- 60-70% wood pulp, 30-40% spunbond nylon	Dominican Republic and Huntsville, Alabama	CSP	Free
3%	Kimberly-Clark Corp.	1) KIMGUARD -- 100% spunbond polypropylene	Mexico	379.9601	16¢ per lb + 24% ad val.
				383.9205	16¢ per lb + 24% ad val.
				389.6265	16¢ per lb + 13% ad val.
		2) SPUNGUARD -- 100% spunbond polypropylene	Mexico	379.9601	16¢ per lb + 24% ad val.
				383.9205	16¢ per lb + 24% ad val.
				389.6265	16¢ per lb + 13% ad val.
		3) KAYCEL -- 95% wood pulp, 5% nylon scrim	Mexico	256.8780	5.6% ad val.

Market Share	Company	Components of Hospital Drape and Gown Products	Assembly Location	TSUS Item #	1983 Tariff Rate
5%	Work Wear Corp., Inc. (includes former Mars and Will Ross Companies)	1) KAYCEL -- 95% wood pulp, 5% nylon scrim	Mexico	256.8780	5.6% ad val.
		2) DEXTER -- 0-50% polyester, 50-100% wood pulp	Mexico	256.8780	5.6% ad val.
5%	Kendall Company (Division of Colgate-Palmolive Company)	1) TYVEK -- 100% spunbond polyethylene	U.S.	None	None
		2) KAYCEL -- 95% wood pulp, 5% nylon scrim	U.S.	None	None
2%	Tekna-Med	1) KAYCEL -- 95% wood pulp, 5% nylon scrim	Dominican Republic and Columbus, Miss.	GSP	Free
		2) DEXTER -- 0-50% polyester, 50-100% wood pulp	Dominican Republic and Columbus, Miss.	GSP	Free
1%	General Econo-Pak	1) KAYCEL -- 95% wood pulp, 5% nylon scrim	U.S.	None	None
		2) GEORGIA-PACIFIC -- 95% wood pulp, 5% nylon scrim	U.S.	None	None
		3) DEXTER -- 0-50% polyester, 50-100% wood pulp	U.S.	None	None
5%	All Other	--	--	--	--

-- Some of these products contain binders and other treatment chemicals not included in the fiber percentages.

-- Kimberly-Clark, duPont, Dexter, and Procter and Gamble are the primary producers of the component disposable base sheet for these hospital gowns and drapes. All of the base sheet is manufactured in the U.S.

Source of market share data: Hospital Supply Index - IMS America, 4th Quarter 1982 Report (covers 12 month period). These shares are comprised of disposable surgical gowns, and surgical packs and parts (drapes). Market share percentages represent the share of dollars.

4-15-83 .

ATTACHMENT C

EXAMPLE OF COMPARABLE DUTY RATES FOR DISPOSABLE STERILE GOWNS

	Duty Rate			Duty Per Gown			
Year	Paper 256.87	MMF* 379.9601 383.9205	Combined Effective Rate MMF*	Paper	MMF*	Added Cost Per Gown	% MMF* Duty vs. Paper
1983	5.6%	24% + .16 lb.	29.1%	.0244	.1265	.1021	520%
1984	5.6%	22.3% + .13 lb.	26.3%	.0244	.1150	.0906	470%
1985	5.6%	20.5% + .08 lb.	23.0%	.0244	.1002	.0758	410%
1986	5.6%	18.8% + .04 lb.	20.2%	.0244	.0874	.0630	360%
1987	5.6%	17.0% + --	17.0%	.0244	.0741	.0497	300%

*MMF = Man-made fiber

Senator **Danforth**. Mr. Saunders.

STATEMENT OF PAUL SAUNDERS, VICE PRESIDENT, SURGIKOS, INC., ARLINGTON, TEX., ACCOMPANIED BY EUGENE T. ROSSIDES, PARTNER, ROGERS & WELLS, WASHINGTON, D.C.

Mr. **Saunders**. Good morning, Mr. Chairman, I am Paul Saunders of Surgikos. I am accompanied by Mr. Eugene Rossides, our Washington counsel, and Mr. Lew Stein, our corporate counsel.

The following are the principal points made in my written statement filed today on behalf of Surgikos, a Johnson & Johnson company of Arlington, Tex., regarding H.R. 3398 and the Senate counterpart bill, S. 37. We oppose enactment of this legislation.

Surgikos manufactures and markets an extensive line of disposable packs, gowns, and surgical specialty products for use in operating room procedures. These products are properly classified as "reinforced paper, composed of 55 percent wood pulp, 45 percent polyster binder, a biodegradable product."

Mr. Chairman, we oppose this legislation for several reasons: If enacted, it would be contrary to public policy and have an adverse impact upon our manufacturing operations in Texas, where we currently have about 1,400 employees and a facility investment of $23 million.

Surgikos has been in this business 20 years. We have built the business under existing customs rules and regulations. This is a finite business; not a single new domestic job would be created by this legislation.

Furthermore, the articles covered by the legislation are 100 percent textile items of nonbiodegradable polypropylene. The legislation would create new items in the textile schedules without following the mechanisms provided by Congress.

In addition, the legislation would potentially open up imports of fabrics from all nations.

While the bill is written to benefit a particular U.S. company, foreign-produced nonwovens could be imported under its provisions, placing an additional strain on the already burdened textile industry.

A restriction on importations for use in performing surgical procedures apparently excludes other uses. It would be difficult to enforce this, posing a threat to industrial use markets as well.

It has been alleged that this legislation will reduce the health-care costs. To the contrary—enactment would have no appreciable effect, as the total disposable pack and gowns business represents less than 1 percent of the overall expenditures of hospitals, and margins for all disposables are constrained by the cost of using reusable products for the same end uses.

By way of a final comment, there is no basis for any claim that the duty on the textile product should be reduced to the level of the paper product as a matter of equity. Similar products made of dissimilar ingredients are classified at different duty rates throughout the tariff schedules. And as previously mentioned, Surgikos has built this business under existing rules and regulations.

In conclusion, Mr. Chairman, this legislation would have an adverse impact on an already competitive business, as well as upsetting the balance of the carefully crafted textile arrangements. We oppose enactment.

Thank you, Mr. Chairman.

[The prepared statement of Paul J. Saunders follows:]

October 21, 1983

BEFORE THE UNITED STATES SENATE COMMITTEE ON FINANCE,
SUBCOMMITTEE ON INTERNATIONAL TRADE

STATEMENT ON H.R. 3398, SECTION 124, AND SENATE COUNTERPART BILL, S.37

HEARING ON MISCELLANEOUS TARIFF BILLS

Mr. Chairman and Members of the Subcommittee: My name is Paul J. Saunders. I am Vice President (Operations), Surgikos, Inc., Arlington, Texas.

Surgikos is a member of the Johnson & Johnson family of companies. Our corporate headquarters are in Arlington, Texas. We have manufacturing facilities in Arlington and El Paso, employing almost 1,400 persons at these locations in Texas, with a facility investment of $23 million. Surgikos presently markets an extensive line of disposable packs and gowns and surgical specialty products for use in major operating room procedures. These are properly classified under the Tariff Schedules of the United States (19 USC 1202) by the U.S. Customs Service as products of reinforced paper, composed 55% of wood pulp and 45% of polyester binder.

We oppose the legislation as contrary to public policy and as having an adverse impact on the business and employees of Surgikos in Texas.

This bill, if enacted, would create a new tariff item to be inserted in the Appendix to the Tariff Schedules of the United States (TSUS), with duty at the Column 1 rate of 5.6 percent ad valorem, covering bonded fiber fabric disposable gowns for use in surgical procedures, of man-made fibers, and bonded fiber fabric disposable surgical drapes, of man-made fibers. Materials in the form of gowns similar to those described in the bill and designed for the same use are presently classified as textile items of non-woven disposable apparel designed for use in hospitals, clinics, laboratories, or contaminated areas in items 379.96 and 383.92, TSUS, at a duty rate of 16 cents a pound, plus 24% ad valorem. Surgical drapes of textiles are now dutiable at the rate of 16 cents a pound plus 13% ad valorem in item 389.62, TSUS. We understand that the products to be covered, although disposable, are made 100% of polypropylene which is most emphatically not biodegradable and for that reason will present problems in waste treatment.

The existing classification for products of reinforced paper has been established in accordance with all the safeguards of the applicable provisions of the Tariff Schedules. As such, it provides a standard of certainty for importers and other businessmen who are able to make their business judgments based upon known and accepted standards, procedures, and rules established in current law. In addition, our products, composed 55% of wood pulp and 45% of polyester, are byproducts of a chemical reaction and are fully biodegradable within a short period of time. They thus do not present waste disposal problems.

The recent multilateral trade negotiations, conducted under the auspices of the General Agreement on Tariffs and Trade (GATT), have involved negotiations by all the members of the GATT, including the United States. The participants have agreed to virtually universal and uniform tariff treatment of products imported into the member countries. These negotiations, in effect, have created a carefully balanced and mutually interdependent system in which each part bears a purposefully measured relationship to the whole. One of the programs which has developed out of the GATT is known as the Generalized System of Preferences (GSP) which is designed to assist beneficiary developing nations by granting tariff preferences on selected products incident to importations into the participating developed countries, including the United States.

The United States has adopted the GSP in P.L. 93-618 approved January 3, 1975 (19 U.S.C. 2461 et seq.). Under the provisions of that law, the President is required to designate the articles which may be admitted to the United States duty free under the GSP program but he is specifically precluded from designating certain articles which the Congress has determined are import-sensitive. The first category of such import-sensitive articles is textile and apparel articles which are subject to textile agreements. For this reason, none of the TSUS items cited in the bill is designated as a duty-free GSP textile item. Further, the United States is a signatory to the multi-fiber arrangement for textile products which would be adversely affected by this amendment.

Legislative action at this time to reduce the duty on textile articles without considering the usual concessions available through negotiations at the GATT or with our trading partners, as in the multi-fiber arrangement, would upset the delicate balance achieved through previous negoitations and be contrary to the "hands off" policy for textile items legislated by the Congress.

It has been asserted by the proponents of the legislation that somehow the enactment of this legislation will assist in the containment of the costs of health care. The statement of May 10, 1983, submitted by the supplier of the paper product to Surgikos, E.I. du Pont de Nemours and Company, to the Subcommittee on Trade of the House Ways and Means Committee in opposition to the enactment of the predecessor bill on this subject, H.R. 1226, said that such a claim is demonstrably without merit. To quote the du Pont statement:

> Finally, and perhaps regrettably, passage of H.R. 1226 will have no appreciable impact on cost of health care. The sales price of disposable surgical gowns and drapes cannot be arbitrarily set by producers of these items. This is so because the greatest volume of surgical gowns and drapes used in U.S. hospitals is composed of reusable cotton gowns and drapes which are laundered by the hospitals themselves or outside linen services. Margins for all disposables are constrained by the cost of using reusable products in the same end uses. Thus, H.R. 1226 will have little effect on cost of health care.
>
> Du Pont has supported efforts of the United States Government to maintain an adequate duty structure on textile products. We believe adoption of H.R. 1226 would tend to undermine the textile program by basing classification of an imported textile item on its intended use rather than its nature as a textile product. Use-related tariff provisions have always been difficult to monitor and the one suggested in H.R. 1226 will be no exception.

All these reasons militate against the enactment of legislation which would make a specific exception for certain textile materials without the usual safeguards of study of the impact of the proposal and negotiation of arrangements with other countries. Further, the proposal, although of immediate benefit to one company, is drawn in general terms. If enacted, it would open the door to imports of textile products at a very low duty rate for the use described from any country entitled to most-favored-nation treatment, thus clearing the way for further competition from any number of sources for our already beleagured textile industry.

The Congress has provided a statutory mechanism under which individual changes in the Tariff Schedules may be made after studies of the effect on domestic industries, following the necessary investigation by the International Trade Commission, review by the U.S. Trade Representative, and approval by the President. Such a study can and does include consideration of all relevant factors, economic and environmental, and the reciprocal benefits the United States might achieve in return for lowering the duty rate on any given item. Significantly, individual changes for specific products have recently been the subject of negotiations at the GATT by the U.S. Trade Representative, with appropriate trade-offs in which the United States receives a quid pro quo. This concept of reciprocity is sound, yet no such trade-off is, or can be, provided in this bill.

The wisdom of adhering to bilateral negotiations made only after study is apparent here, since a study of the effect of the proposed change would, we are quite confident, indicate a seriously adverse impact on both the economy and the environment.

In introducing the bill, the sponsor stated that the legislation is needed to remedy an inequity existing in the Tariff Schedules in that the duty applied to gowns and drapes made of paper was considerably less than the duty applicable to identical gowns and drapes made of bonded fabric.

That statement seems to contradict itself in distinguishing between the products, one being made of paper, and one of bonded fabric, and at the same time in saying that the two are identical. They are not, as is manifest from the statement itself.

The fact of the matter is that while the end use is similar, the products are not identical, one being made of reinforced paper and the other of bonded fabric. And again it is reitereated that our products are 55% of wood pulp and 45% of polyester. The statements to the contrary on the composition of the two products made in the House of Representatives are incorrect.

The classification of this product as reinforced paper by Customs has a legal presumption of correctness which is provided for in law. It is not only legally correct and presumed to be so, it is also factually correct. The chief component of the Surgikos product is paper; the other product is indeed 100% of polypropylene, a man-made fiber.

Furthermore, it is important to note that very real difficulties in administration and enforcement result from a tariff imposed on end use rather than composition. The uses to which an ultimate consumer may put such products are difficult to monitor and are subject to abuse -- laboratories or industrial setting are but two examples where competition with a domestic market could possibly be an unintended result.

We urge opposition to this bill. It sidesteps the established procedures for orderly and equitable trade negotiations; it attempts to provide legislatively a remedy that has twice been denied administratively in Customs rulings and the asserted claim that it will lead to the containment of health care costs is without credibility and is not correct.

Senator **Danforth**. Thank you.

Senator Bentsen.

Senator **Bentsen**. Thank you very much, Mr. Chairman.

Mr. McGrevin, did I understand you to say that this will in no way change the competitiveness of the product? Is that what you stated?

Mr. **McGrevin**. No, sir. I believe that's what Mr. Saunders stated.

Senator **Bentsen**. I see. That was not your statement, then.

Mr. **McGrevin**. Senator, I believe what I said was, at this juncture we have a position that we have less than 5 percent market share—our company. We are paying in the range of three to five times more duty on equal products, similar products.

Senator **Bentsen**. If you would just deal with the question I asked.

Mr. **McGrevin**. Yes, sir.

Senator **Bentsen**. So you did not say that you think it will make you more competitive?

Mr. **McGrevin**. I'm sorry, sir. It will enable us to be more competitive, yes; it will change our competitive situation, which now we are at a distinct disadvantage.

Senator **Bentsen**. Now let me ask you, sir: You were talking about 1,400 employees in the State I represent?

Mr. **Saunders**. Yes, sir.

Senator **Bentsen**. Those are located in Arlington and El Paso?

Mr. **Saunders**. Yes, sir; that is correct.

Senator **Bentsen**. And how are they divided up in that regard?

Mr. **Saunders**. Approximately 700 to 800 in Arlington and almost the balance of that in the El Paso area.

Senator **Bentsen**. The problem we have down there, with the devaluation of the peso is that you have some of the highest unemployment in the United States on the Texas-Mexican border.

Mr. **Saunders**. Yes, sir.

Senator **Bentsen**. So obviously it is a matter of concern to me if it means something that lets an outside product come in and be more competitive, and the further exportation of jobs.

I am also concerned about the fact that this rate of duty on these products has been negotiated and bound in GATT. I was a part of that process. And I don't dismiss the idea that we give them a further concession without getting anything in return. I have long felt that any time we do something like that it ought to be, to the extent we can, a bilateral situation.

Mr. **McGrevin**. Senator, may I just state that we agree with you on that, and as an effort, as a part of our compromise over the last 2 years in trying to narrow this bill, we did attempt to go to the appropriate parties. And as I stated in my previous statement, they simply came back and said that they didn't feel it was a significant enough issue to take on. We would have preferred to do that ourselves, but they just didn't give us that opportunity, and we had to go the legislative process.

Senator **Bentsen**. Thank you very much, Mr. Chairman.

Senator **Danforth**. Thank you, Senator Bentsen.

Gentlemen, thank you very much.

Mr. **McGrevin**. Thank you, Senator.

Mr. **Saunders**. Thank you.

Senator DANFORTH. The next bill is S. 230: Mr. O'Dell, Mr. Connaughton, and Mr. Datt.

Again, 5 minutes to a side.

Mr. O'Dell.

Mr. O'DELL. Thank you, sir.

STATEMENT OF WILLIAM R. O'DELL, WELLINGTON PURITAN MILLS, MADISON, GA., REPRESENTING THE CORDAGE INSTITUTE

Mr. O'DELL. Mr. Chairman and members of the committee, my name is Bill O'Dell. I am president of Wellington Industries, current president of the Georgia Textile Manufacturers Association, and past president of the Cordage Institute, in whose behalf I appear today. I am here to testify in favor of Senate bill 230.

The Cordage Institute is a trade association of manufacturers of natural and manmade cordage products. The members manufacture all sizes and types of cordage products from twine used to wrap small packages to hawsers to tie up the Nation's largest ships.

For the most part, the members are small businesses. The industry employs approximately 3,500 highly productive employees.

The domestic cordage industry has been able to stay competitive in large part with foreign imports because Congress has, through its tariff schedules of the United States, prevented foreign manufacturers from dumping their products into the U.S. market without compensating duties of tariffs.

Some importers, however, have found ways to circumvent the intent of Congress. Synthetic cordage products imported into the country come in or should come in under U.S. TSUS's 3.6.55 and 58. In June of 1982, however, several members reported seeing imported cordage coming in under a basket category in the Tariff Schedule item 774.5595 as "Articles not Specifically Provided for, Rubber or Plastic: Other." Upon investigation, we found out that the U.S. Customs Service had made a ruling on the manufacturnig process of cordage products that has no practical effect on the end product but does disqualify that product as "cordage" under the definition contained in the Tariff Schedule.

Cordage manufactured from material which falls within the dimensional requirements of a "strip" is classified as "cordage." If the cordage is manufactured from a plastic material which is over 1 inch in width, such material ceases to be considered "textile fiber" and is considered "plastic," and is so classified under the Tariff Schedule. The result is that two imported polypropylene cordage products identical in characteristics and for end-use purposes are classified under different Tariff Schedule categories at substantially different duty rates, merely because one product was manufactured from a material, a plastic, over 1 inch in width, and the other one of perhaps slightly under 1 inch. I passed up samples to you, and the obvious effect I think will be apparent to you.

The situation is further aggravated by the fact that the basket category receives generalized system of preferences treatment, which means that imported cordage entered under the category from certain beneficiary countries not only receive duty-free status but also it opens the doors to unlimited quantities of goods not subject to quotas.

It is important to point out here, Mr. Chairman, that this is a fairly recent phenomenon. It was not until late 1981 that this loophole was discovered by agents of the South Koreans, and not until 1982 that we were able to observe the effects.

As recently as 1977 this basket category represented only $2.2 million in imports. In 1981, it jumped to $8 million; and in 1982 to $18 million; and if the current trend continues, in 1983 the imports will be $28 million.

We believe that this enormous quantity of polypropylene rope is included in these increased shipments. We also believe that the loophole is being actively and aggressively exploited to the detriment of our domestic cordage industry, and in defiance to the will and intent of Congress.

As evidence that cordage products are coming in through the loophole, I would cite two graphic comparisons: In 1982 the Republic of Korea agreed to limit shipments of polypropylene cordage products to this country to 3.5 million pounds. In fact, in 1982 they shipped into the country only 2,111,000 pounds, or only 60 percent of their quota. The reason very simply is because it came in duty free under the "basket" category.

In the same timeframe, domestic cordage sales decreased by 20 percent.

Relief for our industry can be sought in two methods—by going the route of section 516 of the Tariff Act of 1930, and by legislation.

We have appealed under 516. Quite frankly, we don't have time for that to take action; the industry won't be in existence if that takes its normal course. S. 230 is our only expedient course.

After the institute testified before the House Ways and Means Subcommittee on Trade in May of this year, a question was raised concerning the possible incompatibility of language S. 230 with H.R. 1624, the Tariff Schedule. After consultation with Federal agencies that raised this question, we believe that this legislation can be amended in a way that will satisfy both the requirements to close the loophole and also overcome the question raised by the agencies charged with administering the Tariff Schedules. A proposal of this amendment has been attached to our statement already issued.

Thank you, Senator.

Senator DANFORTH. Thank you, sir.

Mr. Connaughton, and Mr. Datt.

[Mr. William O'Dell's prepared statement follows:]

THE CORDAGE INSTITUTE

WILLIAM R. O'DELL

STATEMENT ON S. 230

The Cordage Institute is a trade association of manufacturers of natural and man-made fiber cordage products. Since its founding in 1920, the Cordage Institute has been the collective voice of this important industry. It has a history of service to the country and to the customers, distributors and manufacturers of cordage products made from natural and man-made fibers. The Institute has 22 regular members and 3 associate members located in 16 states. The members of the Cordage Institute manufacture all sizes and types of cordage products from twine used to wrap small packages to large hawsers used to tie up the nation's ships. For the most part, the members of the Cordage Institute are small businesses struggling to survive in a highly competitive and recessionary economy. The cordage industry has been resilient and flexible and has been able to meet the challenges of a volatile economy.

The 3500 workers in the cordage industry today are highly productive. The U.S. Department of Commerce Census of Manufacturers has shown that the value added per employee in the U.S. cordage industry nearly doubled between 1967 and 1977. In terms of value added per production worker hour, the increase in productivity was over 120% during that same period. The strong positive finding in this area helps to explain the domestic cordage industry's record of declining real prices and international competitiveness during the highly inflationary 1970's. Even in the face of increasing imports, the domestic cordage industry has been able to demonstrate its commitment to remain competitive internationally.

In part, the domestic cordage industry is able to stay competitive because the Congress has, through the Tariff Schedules of the United States, prevented foreign manufacturers from dumping their products on the United States market without any compensating duties or tariffs. The preservation of international price competition by the domestic cordage industry is in danger as are a substantial number of the domestic manufacturers because some importers have found a way to circumvent the intent of Congress to keep distribution and sales of cordage products in this country on a competitive basis.

The synthetic cordage products imported into this country come in, or should come in, under the cordage T.S.U.S. numbers of 316.55, 316.58. In June of 1982, however, several members reported seeing imported cordage products that were not coming in under the normal cordage T.S.U.S. numbers, but coming in under a basket category in the Tariff Schedules item 774.5595 as "Articles not Specifically Provided for, Rubber or Plastic: Other." Upon investigation, we found that the U.S. Customs Service had made a ruling on the manufacturing process of cordage products that has no practical effect on the end product, but does disqualify that product as cordage under the definition contained in the Tariff Schedule.

Cordage manufactured from plastic material which falls within the dimensional requirements of a "strip" is classified as cordage. However, if the cordage is manufactured from plastic material over one inch in width, such material ceases to be considered as a textile fiber and is considered plastic and is so classified under the Tariff Schedule. The reason underlying this difference in classification is that the current definition of cordage as contained in Schedule 3 Part 2 -- Headnote 1(a) restricts cordage to "...assemblages of textile fibers or yarns ..." and therefore cannot be classified as cordage according to the Customs Service. Consequently, such cordage made from plastic material is classified by the Customs Service under Schedule 7 Part 12, Subpart D, Item 774.5595 as "Articles not Specially Provided for of Rubber or Plastic: Other." The result is that two identical importations of polypropylene cordage of identical characteristics and use are classified under differing Tariff Schedule categories at substantially different duty rates merely because one product was manufactured from plastic material over one inch in width while the other was not.

Foreign manufacturers have taken full advantage of this discrepancy in the Customs law. They have been certain that the cordage they produce for exportation to the United States is constructed of plastic material over one inch in width in order to enjoy the advantages of lower, or no duty and consequently to afford themselves an economic advantage over the domestic cordage industry. The situation is further aggravated by the fact that Item 774.5595 receives Generalized System of Preferences treatment, which means that importation of cordage entered under item 774.5595 from certain beneficiary countries receive duty-free status. Additionally, there are quota restrictions on cordage products entered under items 316.55, 316.58, but no quota restrictions under item 774.5595. Therefore, not only is the foreign manufacturer receiving the benefits of a lower duty or no duty from cordage made from plastic material entered under item 774.5595; he is also totally certain of no quota restrictions. It is important to point out here that this is a fairly recent phenomenon. It was not until late in 1981 that this loophole was discovered by agents of the South Koreans and not until 1982 that we were able to observe the full effects.

We submitted to the United States Trade Representative an economic white paper that clearly showed the significant market disruption caused by unfettered importation of polypropylene cordage. The paper was prepared to provide information to the United States Trade Representative for their bilateral negotiations with the Republic of Korea in support of the Cordage Institute request for relief against the flood of imports from Korea of cordage products. The United States Trade Representative did negotiate a quota in the subject tariff items as a result of the Cordage Institute request.

The paper demonstrated the precarious nature of the domestic industry in regard to the low price of foreign imports, a case that was convincing to the United States Trade Representative before it was known that competitive products were entering the United States duty-free through a loophole in the Tariff Schedule.

For previous years, as the following chart shows, this basket category represented only $2.2 million as recently as 1977. Even in 1981 the category represented only $8 million of imports but then, in 1982, this category increased by almost two and one half times to over $18 million.

Valuation of T.S.U.S. Item 774.5595:

1977	$2,242,000
1978	$4,622,000
1979	$8,062,000
1980	$7,503,000
1981	$8,039,000
1982	$18,043,957

From our reading of the Journal of Commerce Weekly Import Bulletin, we believe that an enormous quantity of polypropylene rope is included in these increased shipments. We also believe that the loophole is being actively and aggressively exploited to the detriment of our domestic cordage industry and in defiance of the will and intent of Congress and the United States Trade Representative.

As evidence that cordage products are coming in through this loophole we would cite two graphic comparisons:

In 1982, the Republic of Korea agreed to limit shipments of polypropylene cordage products to this country to 3,500,000 pounds up from the 1, 885,059 pounds they shipped to this country in 1981. In fact, they exported to this country in 1982 only 2,111,129 pounds under the cordage categories or only about 60 percent of their quota.

In 1982, the domestic cordage industry recorded a precipitous drop in sales of polypropylene cordage to 16,421,200 pounds in 1982 from 20,579,900 pounds in 1981; a decline of over 20% at a time when the economy was improving.

Relief for the cordage industry and the restoration of the full intent of Congress can be effected by two methods. One method is to file a petition, as described in section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516) with the Customs Service to get them to change their ruling that we believe is a misclassification. This we have done.

However, even if the Customs Service considered our petition on an expedited basis the absolute earliest we could look forward to relief, given the statutory time required for comment periods and economic impact statements, would be 9 months and it could run 12 to 18 months. Such delay would be disastrous to the cordage industry, and could mean the demise of some of our members.

The fastest way to reinstate congressional intent, we believe, is through legislation. Our bill, S. 230, and its companion legislation, H.R. 1624, is really very simple in its application; it would remove the distinction between identical pieces of cordage whose only difference is a minor change in method of manufacture. It would permit the Customs Service to look at a piece of 3/16 inch rope and say, "That's a piece of rope" without sending it off to the laboratory to find out whether or not it had been made out of strips greater or less than one inch in width. By their own admission, the Customs Service has said that "...it is quite difficult to determine the exact original width of a strip after it has been fully fibrillated..."

We realize that there are many distinctions in the Tariff Schedules between products and that definitions serve a purpose in determining the value of a product for tariff purposes. For instance, extra ornamentation or an added finish can change the value of a product and it could logically be classified under a different item number that reflects that changed value. But the definition of the product itself would not be changed. Adding ornamentation to a shirt might change the value of the shirt but it would still be called a shirt. The effect of the current law is to say that, because of its method of manufacture, a piece of rope is, in fact, not rope. We believe that circumstance is neither reasonable, nor logical, nor the intent of Congress.

S. 230 does not reclassify an item from one category in the Tariff Schedule to another, it merely ensures that all cordage products intended by Congress to come into this country under certain item numbers in the Tariff Schedules will do just that. We have the simple belief that if the Congress intended one piece of rope imported into this country to fall under certain cordage item numbers in the Tariff Schedule, they intended every piece of rope to fall under cordage items in the Tariff Schedule.

After the Institute testified before the House Ways & Means Subcommittee on Trade in May of this year, a question was raised concerning the possible incompatibility of the language in S. 230 and H.R. 1624 with the Tariff Schedules. After consultation with the federal agencies that raised this question, we believe that this legislation can be amended in a way that will satisfy both the requirement to close the loophole and also overcome the question raised by the agencies charged with administering the Tariff Schedules. Attached is the proposed amendment.

At present, this problem is an immediate one for the Cordage Institute and all manufacturers of cordage products. If this loophole is left open, however, we believe that foreign manufacturers will not only continue to make cordage products from plastic strips a little wider than an inch, but that it is entirely possible that they will be making woven fabrics as well. There is clearly the technology available to make woven plastic seatcovers or tarpaulins or other items that are generally believed to be textile products out of these plastic strips wider than an inch. Because this is a clear and present danger, we have the support of the Man-Made Fiber Producers Association and the American Textile Manufacturers Institute behind this bill.

It is interesting to note that shortly after the bill was originally introduced in the 97th Congress in September, 1982, a great deal of misinformation was circulated about the adverse economic effects of this bill on the farmers. I would hasten to point out that in fact, the only adverse consequences suffered by the American farmer will be if this bill is not passed.

In 1982, the amount of baler twine that was shipped within this country (according to the Textile Economic Bureau) was 166 million pounds. Of that 166 million pounds, 145 million pounds was sisal baler twine, a natural fiber twine that is imported into this country from Brazil, Mexico and some East African countries without quota and without duty. That represents 86% of all the baler twine that is used in this country. The remaining 21 million pounds, or 14% is plastic or polypropylene twine, virtually all of which is made in this country -- domestically produced.

Historically, there has been a 20% price differential between sisal or natural fiber twine and plastic twine, with the plastic twine being less expensive. Since there is currently an insignificant amount of plastic baler twine being imported into this country, this bill would have a negligible effect on the price of plastic baler twine and, of course, it would have no effect whatsoever on the status of the imported sisal twine. Moreover, we would submit that if this bill is not passed and, as a result, manufacturers of baler twine go out of business because they cannot compete with their other products as long as this loophole stays open, then the American farmer will be at the mercy of a foreign cartel for his sisal baler twine and, if plastic baler twine is imported, he will be at the mercy of one or possibly two importers.

We believe, without fear of successful contradiction, the domestic baler twine manufacturers in this country are having a moderating effect on the price of all baler twine.

In summary, Mr. Chairman and members of the Committee, we implore you to report S. 230 quickly and close this loophole that is rapidly destroying the ability of the domestic rope manufacturers to survive.

An amendment to S.230

Section 1. Part 1-E of Schedule 3 of the Tariff Schedules of the United States is amended-

(1) by deleting "each of which consists" in headnote 3(c) and inserting in lieu thereof, "and fibrillated or fibrillating strips of any dimension which consists, after fibrillation in the case of strips," and;

(2) by inserting the headnote 3(d), following the word "embraces,' the terms "non-fibrillated or non-fibrillating."

Technical Amendment to H.R. 1624

The amendment to H.R. 1624 is a technical amendment that clarifies the definition of a plexiform filament in Part 1 E of Schedule 3 of the Tariff Schedules of the United States, rather than amending the headnotes in Part 1 E. Currently, the U.S. Customs Service has interpreted the language in such a way that the definition of "plexiform filaments" is combined with the definition for "strips" so that plexiform filaments derived from fibrillatable strips of over one inch in width become a plastic item rather than a textile fiber.

In the instant case this interpretation of existing language by the Customs Service means that cordage products made from plexiform filaments derived from fibrillatable strips of one inch or less in width are imported into this country under the cordage category in the Tariff Schedule, while cordage products made from plexiform filaments derived from fibrillatable strips wider than one inch are considered plastic under this interpretation and come in under the basket category of 774.55: "Articles not specially provided for, of rubber or plastic: Other."

In fact, the Tariff Schedules did not contemplate a width limitation on fibrillatable strips of plexiform filaments. The clear distinction between "plexiform filaments" and "strips" is that *a plexiform filament is capable of being fibrillated whereas a strip is not capable of being fibrillated*.

Headnote 3(c) would now read:

(c) the term "plexiform filaments" embraces flexible filaments and fibrillated or fibrillating strips of any dimension which consists, after fibrillation in the case of strips, of a network or plexus of fine fibers and which are suitable for the manufacture of textiles.

Headnote 3(d) would now read:

(d) the term "strips" embraces non-fibrillated or non-fibrillating strips (including strips of laminated construction), whether or not folded lengthwise, twisted, or crimped, which in unfolded, untwisted, and uncripmed condition are over 0.06 inch but not over one inch in width and are not over 0.01 inch in thickness;

G S P	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty		
					1	LDDC	2

(viii) fishing line put up and packaged for retail sale (see part 5B of schedule 7);

(ix) racket strings put up and packaged for retail sale (see part 5D of schedule 7); or

(x) brush bristles provided for in part 12C of schedule 7.

2. (a) For the purposes of the tariff schedules, the term "man-made fibers" refers to the filaments, strips, and fibers covered in this subpart.

(b) Subject to the limitations set forth in headnotes 1 and 3 of this subpart, the respective provisions in this subpart for filaments, strips, and fibers cover such articles whether they are formed by extrusion or by other processes from substances derived by man from cellulosic or noncellulosic materials by chemical processes, such as, but not limited to, polymerization and condensation.

(c) The provisions of this subpart applicable to grouped filaments and fibers include grouped glass filaments and glass fibers produced therefrom, suitable for the manufacture of yarns, cordage, or woven fabrics. For the purposes of the provisions of the tariff schedules applicable to articles of man-made fibers, glass filaments and glass fibers shall be treated as man-made fibers only if they have been made into yarns or cordage, or if they are present in fabrics or other articles in the form of yarns or cordage.

3. For the purposes of this subpart —

(a) the term "filaments" embraces monofilaments, plexiform filaments, and grouped filaments, however produced;

(b) the term "monofilaments" embraces single filaments (including single filaments of laminated construction or produced from two or more filaments fused or bonded together), whether solid or hollow, whether flat, oval, round, or of any other cross-sectional configuration, which are not over 0.06 inch in maximum cross-sectional dimension;

(c) the term "plexiform filaments" embraces flexible filaments each of which consists of a network or plexus of fine fibers and which are suitable for the manufacture of textiles;

(d) the term "strips" embraces strips (including strips of laminated construction), whether or not folded lengthwise, twisted, or crimped, which in unfolded, untwisted, and uncrimped condition are over 0.06 inch but not over one inch in width and are not over 0.01 inch in thickness;

(e) the term "grouped filaments and strips" embraces two or more filaments or strips, as defined in (a), (b), (c), and (d) of this headnote, grouped together with the filaments or strips substantially parallel and not twisted, but the term does not include grouped filaments which have been subjected to processes such as twisting and untwisting, false twisting, crimping, and curling, and which are useable as yarns;

STATEMENT OF THOMAS A. CONNAUGHTON, PARTNER, BAYH, TABBERT & CAPEHART, WASHINGTON, D.C., ON BEHALF OF FRANK W. WINNE & SON, INC., PHILADELPHIA, PA.

Mr. CONNAUGHTON. My name is Thomas Connaughton. I am counsel for Frank W. Winne & Son, Inc., of Philadelphia. Winne is a distributor of all types of imported and domestic binding and tying materials.

We welcome the opportunity to state our opposition to this legislation, and I think I can summarize it very quickly for the committee.

First, Mr. Chairman, a domestic interested party petition has been filed at Customs. There is an administrative proceeding going on which addresses the concerns of the industry. We believe it would be unwise to enact what we consider to be far-reaching legislation while this administrative proceeding is under consideration.

Second, the plastic materials affected by S. 230 are bound items under GATT. If the bill is enacted, compensation would be required to those nations which export the material to the United States.

Third, Mr. Chairman, the legislation would adversely affect important segments of the U.S. economy, particularly agriculture, marine, and fishing interests, which consume the largest quantities of plastic tying materials. The cost of these materials will increase approximately 20 cents per pound if S. 230 is enacted and a 25–30 percent duty is placed on these products.

Further, Mr. Chairman, we disagree with the proponents of this bill on the merits of the tariff question in general. This is not a "loophole." There has been a longstanding precedent to divide plastics from textiles based on objective physical criteria rather than use.

Certain materials are plastics, no matter how they are used. The Tariff Commission and Congress examined and has specifically rejected use tests which were suggested by American industry over 20 years ago. Enactment of S. 230 would overrule this well reasoned precedent and render the Tariff Schedules confusing and inconsistent regarding these important distinctions between plastics and textiles.

Thank you, Mr. Chairman.

Senator DANFORTH. Thank you, sir.

[The prepared statement of Thomas A. Connaughton follows:]

STATEMENT IN OPPOSITION TO S.230

Pursuant to Press Release No. 83-173

Presented to the
Subcommittee on International Trade
Committee on Finance
United States Senate

by

Thomas A. Connaughton, Counsel
for Frank W. Winne & Son, Inc.

October 21, 1983

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SUMMARY

1. A Domestic Interested Party Petition has been filed with the Customs Service under 19 U.S.C. §1516 that addresses the alleged problems of the domestic cordage industry. Congress should not enact far-reaching legislation when administrative remedies are available to the proponents of this bill.

2. The plastic materials affected by S.230 are bound items under GATT and if the bill is enacted compensation would be required to those nations which export the materials to the United States.

3. The legislation would adversely affect important segments of the U.S. economy, particularly agricultural and marine interests which consume the largest quantities of plastic tying materials. The cost of these materials will increase approximately 20 cents per pound if S.230 is enacted.

4(a). S.230 would reclassify tying materials made from plastics as textile cordage, thereby subjecting them to very high duties based on the argument that the plastic materials are used for the same purposes as textile cordage.

4(b). The reclassification of plastic tying materials as textiles would upset the distinction between textiles and plastics which runs throughout the textile sections of the Tariff Schedules of the United States. This distinction is based on objective, physical criteria. The "use" criteria which is embodied in S.230 was specifically rejected over twenty years ago and has been rejected by most trading nations of the world.

5. If S.230 is enacted, imports of these plastic materials from Korea would be prohibited under the strict quotas set out for textile cordage under the bilateral agreement signed December 1, 1982 with that country. Since this result could not have been contemplated at the time the agreement was negotiated, renegotiation would probably be required.

STATEMENT

Our firm represents Frank W. Winne and Son, Inc. Winne is a distributor of all types of imported and domestic binding materials, including rope, twine, wire and tape.

We are grateful for the opportunity to present this statement in opposition to S.230 on behalf of Frank W. Winne & Son, Inc. as requested in Press Release No. 83-173. We believe that enactment of S.230 would be unwise, and we respectfully urge the Subcommittee to reject this bill.

As we understand it, to support the need for S.230, the domestic cordage industry has presented an argument that Congress unwittingly left a loophole in the textile provisions of the Tariff Schedules when it excluded certain plastic materials from the definitions of textile fibers. Congress never envisioned, the industry contends, that polypropylene strips over one inch in width might be used in a way which would compete with traditional textile materials. Therefore, the definition of cordage should be changed to include any products made from plastic materials which can be used in a similar manner as textile cordage.

Our research leads us to a very different conclusion. The debate regarding the classification of manmade fibers began with their introduction into commerce over a half-century ago. Domestic manufacturers have consistently pressed for tariff classification which would include as textiles any materials which could be used for textile purposes. However, Congress and Federal agencies have rejected this subjective approach. Instead, an objective standard to divide plastics and textiles, based upon physical characteristics and dimensions, was established and refined after long and careful study. The one inch limitation on strips dates back to 1930 (*see* Appendix A), and despite suggestions from the domestic industry to substitute a subjective use standard, has remained in U.S. law as a reasonable dividing line between textiles and plastics. At the Tariff Commission hearings in 1958 concerning creation of the Tariff Schedules, the domestic industry argued strenuously that strips larger than one inch in width and monofilaments larger than 1/16 inch were being used for textile purposes and that the new schedules should establish a use standard or, at the very least, increase the sizes set out in the objective standards. Though recognizing fully that some manmade fibers classified as plastics would be used for textile purposes, the Tariff Commission rejected the subjective approach and its recommendations were enacted by Congress in 1962.

The attached excerpts from the Tariff Commission's *Tariff Classification Study* illustrate the classification difficulties which manmade fibers posed, and the views on how to overcome these problems. In the Explanatory Notes to Subpart E, Part 1, Schedule 3, of the *Tariff Classification Study* the Commission stated:

> *The problem of providing for man-made fibers is twofold: (1) they must be delineated in terms of*

> *the materials of which they are made, and (2) they must be described in terms of their physical form and dimension. This problem is unique with man-made fibers.* Unlike natural textile fibers, the materials and physical form of man-made fibers, as their name implies, are completely within the control of man. The ability to control fiber size has given broader scope to the textiles concept and has opened up new uses for textile fibers for which natural textile fibers are unsuited.

5 *Tariff Classification Study, Proposed Revised Tariff Schedules of the United States*, 44 (1960), (hereinafter "*Tariff Classification Study*"), (emphasis supplied).

The Commission, in attempting to solve these problems, proposed specific objective definitions of manmade fibers for Schedule 3, and provided a special note to proposed Part 12 of Schedule 7 (plastics) which reads:

> *Special Note for Part 12:*
>
> Among other products, *part 12 includes certain monofilaments and strips not covered by provisions of part 1E of schedule 3 and articles of such products not* covered by the provisions for articles of "man-made fibers" in schedule 3 or elsewhere in schedule 7. At present, it is contemplated that the definition for "man-made fibers" set forth in part 1E as originally published will be modified in certain respects to insure that, to the extent feasible, its application will be confined to textile products. In line with this purpose, it is proposed, among other things, *to restrict the coverage of the term, "man-made fibers"*, insofar as filaments are concerned, *to filaments*, regardless of cross-sectional configuration, whether singles or grouped, whether continuous or noncontinuous, which are *not over 1/16 inch* in maximum diameter, and insofar as strips are concerned, *to strips*, whether or not laminated, folded, or twisted, and whether continuous or noncontinuous, which in flat, unfolded condition are over 1/16 inch but *not over 1 inch in width* and not over 0.01 inch in thickness.

9 *Tariff Classification Study* at 569 (emphasis supplied).

These proposed dividing lines were discussed at length at the Tariff Commission's hearings and in written comments filed with the Commission. The Man-Made Fiber Producers Association, in testimony before the Commission, argued that a manmade fiber should be classified as a textile fiber "regardless of its dimension" and that the proposed dimensional limits on manmade fibers would result in the textiles being classifed as plastics. 5 Tariff Classification Study at 432, See Appendix B. The Association wanted fiber material classified under the manmade fiber schedule without reference to the material's dimension, but noted that if dividing lines were to be drawn, the proposals of 1/16 inch and one inch for monofilaments and strips, respectively, were too small. Id.

Similarly, DuPont, while stating that "certain arbitrary delineations of measurements may be desirable" suggested that the proposed dimensional restrictions were too small. 5 Tariff Classification Study at 591, See Appendix C. Like the Association, DuPont was in favor of including as much manmade material as possible under Schedule 3.

The Commission's thinking on the issue is evident from the excerpts from the Tariff Classification Study attached as Appendix D. Mr. Russell Shewmaker, Assistant Legal Counsel, U.S. Tariff Commission, noted that a physical description of the material has an element of arbitrariness, but provides certainty and solves the problems a use provision would produce. Mr. Shewmaker indicated that the Commission has tried to limit the definition of manmade textile fibers to those which have the characteristics of traditional natural fibers, and stated, in response to the Association's comments, that the Commission's -

> ...effort is, one of giving substance to the term, [manmade fiber] a greater clarity, such as you get from a conception of physical dimension, and cannot get from one where you are constantly confronted with chief use, or 'same other use' conception.
>
> We are trying to get this into an objective schedule, that will not have these subsidiary problems.

5 Tariff Classification Study at 438, See Appendix D.

After receipt of testimony and written comments on its proposals, the Tariff Commission agreed to make certain changes, including distinguishing between monofilaments and strips and creating a separate provision for plexiform filaments. However, the Commission, and ultimately Congress, did not modify the dimensional dividing lines between manmade fibers and plastics.

Based on these materials, we believe that the Tariff Commission and Congress had a full understanding of the issues involved in dividing textile fibers from plastics and chose an objective standard knowing the consequences. Moreover, as indicated by the BTN's means of distingusihing between plastics and textiles, most trading nations have approached this problem similarly. Thus, we do not view S.230 as a bill to correct an unwitting technical error in the Tariff Schedules. Instead, it is a far-reaching substantive piece of legislation which would overturn 50 years of policy and set the U.S. apart from the rest of the world, by including plastics under the Tariff Schedules' provisions for textiles.

It should also be noted that if S.230 becomes law it will be necessary to renegotiate the bilateral agreement with Korea which was reached in 1982. Frank W. Winne has imported plastic tying material classified under TSUS item 774.55 since 1981. Accordingly, we believe that the quotas provided for in the bilateral agreement reached in December, 1982 would have addressed such materials directly if it had been the intent to curtail these imports. In this connection, we note that a white paper submitted by the Cordage Institute in connection with the negotiation of the U.S.-Korean bilateral agreement discusses only imports classified under the textile provisions of the TSUS. Further, the quotas on cordage set out in the agreement are consistent with the pattern of trade in textile cordage from Korea over the last several years. The quota limits do not include plastic materials and nothing in the agreement addresses such materials. Yet, if S.230 was enacted, a substantial portion of trade in these plastics would be prohibited by the quotas negotiated under the bilateral agreement with Korea.

To conclude, we see significant consequences if this legislation is passed. The Tariff Schedules of the U.S. will be unnecessarily confused as textiles and plastics are intermingled despite 50 years of precedent to the contrary. There will be ramifications under GATT, and our bilateral agreement with Korea will be affected.

The legislation would also adversely affect important segments of the U.S. economy. If the legislation is enacted, farmers and maritime interests will be denied an alternative to textile cordage which enhances competition and lowers costs. This is a high price to placate a domestic industry, particularly since imports of the product, we believe, affect only slightly more than one percent of the U.S. cordage market.

Finally, the domestic industry has filed a Domestic Interested Party Petition with the Customs Service under 19 U.S.C. §1516 that, we understand, addresses the industry's alleged problem. It seems to us that Customs can more properly address the concerns of the industry. Far-reaching legislation is not the answer.

Thank you very much for the opportunit" to present our views on this very important legislation. We hope that the Subcommittee will examine the bill carefully and come to the conclusion that it should not be enacted.

APPENDIX A

Comparative Print of H.R.2667 as Passed by the House and the Tariff Act of 1922, H.Doc., No. 23, 71st Congress, 1st Session, 91(1929) *centum ad valorem.*

Par. 1303. [Par. 1213. * * * yarns made from artificial silk waste, if singles, 25 cents per pound; if advanced beyond the condition of singles by grouping or twisting two or more yarns together, 30 cents per pound; * * * but none of the foregoing yarns * * * shall pay a less rate of duty than 45 per centum ad valorem.] *Spun rayon yarn, 10 cents per pound, and, in addition, if singles, 45 per centum ad valorem, if plied, 50 per centum ad valorem.*

Par. 1304. Rayon yarn put up for handwork, and rayon sewing thread, 55 per centum ad valorem, but not less than 45 cents per pound.

Par. 1305. [Par. 1213. * * * products of cellulose, not compounded, whether known as visca, cellophane, or by any other name, such as are ordinarily used in braiding or weaving and in imitation of silk, straw, or similar substances, 55 cents per pound; but none of the foregoing * * * products of cellulose shall pay a less rate of duty than 45 per centum ad valorem.] *Rayon in bands or strips not exceeding one inch in width, suitable for the manufacture of textiles, 40 per centum ad valorem, but not less than 45 cents per pound.*

Par. 1306. [Par. 1213. * * * fabrics * * * composed wholly or in chief value of any of the foregoing, 45 cents per pound and 60 per centum ad valorem.] *Woven fabrics in the piece, wholly or in chief value of rayon, not specially provided for, 45 cents per pound and 60 per centum ad valorem, and, in addition, if Jacquard-figured, 10 per centum ad valorem.*

Par. 1307. [Par. 1213. * * * fabrics and articles composed wholly or in chief value of any of the foregoing, 45 cents per pound and 60 per centum ad valorem.] *Pile fabrics (including pile ribbons), whether or not the pile covers the entire surface, wholly or in chief value of rayon, and all articles, finished or unfinished, made or cut from such pile fabrics, 45 cents per pound, and, in addition, if the pile is wholly cut or wholly uncut, 60 per centum ad valorem, if the pile is partly cut, 65 per centum ad valorem.*

Par. 1308. [Par. 1213. * * * ribbons, and other fabrics and articles composed wholly or in chief value of any of the foregoing, 45 cents per pound and 60 per centum ad valorem.] *Fabrics, with fast edges, not exceeding twelve inches in width, and articles made therefrom; tubings, garters, suspenders, braces, cords, tassels, and cords and tassels; all the foregoing wholly or in chief value of rayon or of rayon and india rubber, and not specially provided for, 45 cents per pound and 60 per centum ad valorem, and, in addition, if Jacquard-figured, 10 per centum ad valorem.*

APPENDIX B

Excerpts from the "Testimony of Mr. E.L. Stewart, Representing the Man-Made Fiber Producers Association", 5 Tariff Classification Study, 430 and "Statement of the Man-Made Fiber Producers Association to the U.S. Tariff Commission in Regard to Part 12 of Schedule 7 of the Proposed Revised and Consolidated Tariff Schedules", 9 Tariff Classification Study, 868.

When, therefore, you undertake to make a division between materials in the form of a fiber and you use in both divisions the terminology "monofilament" and "fiber," you create confusion instead of resolving it.

But we have a more fundamental difficulty with your proposal. We feel strongly that any material in form worthy of being called a fiber, or subject to being called by the name "fiber," necessarily must have these properties of pliability, strength, and extreme length in relation to cross section, so that it can be used in textile operations.

If, therefore, you encounter a material called a fiber worthy of being considered a fiber, it deserves to be classified in the manmade fiber section of the textile schedule regardless of its dimension, regardless of the particular use that the importer who brings it in has in mind.

If your objective is really as you say, and I am sure that you are simply making an effort to accomplish this objective—if your intention is simply to reserve for the manmade fiber schedules textile articles, the criteria which you propose will not accomplish that.

A cross-sectional dimension of one-sixteenth of an inch in diameter will include many fibers deservedly called fiber, because of their suitability for textile use, which in fact are made and brought into this country for nontextile uses.

On the other hand, one-sixteenth of an inch will also allow material to get into the plastics schedule, which is suitable for textile use, and ought not to be considered as a plastic.

There are now monofilaments in dimensions that exceed a sixteenth of an inch, which have all of the characteristics of a fiber, pliability, tensile strength, suitability for use in textile operations, which are actually finding use in textile operations.

Thus, not only will the 1/16-inch dividing line, not exclude from the man-made fiber schedule specific applications which are nontextile, it would put into the plastic schedule basic materials which are textile in accordance with their characteristics.

I would like to show you some examples at this time. I am going to show you some continuous filament 10 mills in diameter. That is less than one sixty-fourth of an inch thick. I am going to unreel a very long length of this.

I think that you can readily determine for yourself that this material which happens to be nylon is certainly pliable, has extreme length in relation to its width, and has the tensile strength which is characteristic of nylon.

Material, monofilament of this width, 10 mills, is used of course in making fabric. It happens to have a very important use in filter cloth for blood plasma.

Nylon is especially good for this because it does not lint, it can be sterilized without affecting its dimensional stability or other properties. While this particular sample is 6 mills, it is also made in the 10-mill size that you have before you.

(Showing the sample of the 6-mill size.)

Mr. STEWART. Here is a type of fabric used for filter purposes (showing sample), which is made from 10-mill nylon monofilament. It is woven just like cloth.

Before I get into heavier applications, these of course are textile uses of 10-mill monofilament.

I have some interesting articles or samples to show to you of nontextile applications of monofilament in dimensions that are less than 10 mills.

I don't know what your esthetic judgment may be, but this wig was made up for use by actors and that sort of thing, and that is made from nylon monofilament 3 mills in thickness.

The perfume has nothing to do with the nylon.

Chairman BROSSARD. You are sure of that?

Commissioner SUTTON. I don't believe there is any perfume on this—there is a little.

Mr. STEWART. This fishing leader, which you gentlemen, I am sure, are well familiar with, is 6 mills in thickness. This obviously is a nontextile application of nylon.

Chairman BROSSARD. You better hold that in your hand. I would be tempted to keep it.

Mr. STEWART. I was going to open it, but lacking the characteristics of dexterity of a watchmaker, I can't even get it open. Anyway, there it is.

pliability and tensile strength which makes the fiber useful for such a purpose.

Several nontextile applications of fiber of this dimension—I illustrate here this form, 25 mills, is made for tennis racket strings, and that is a put up for tennis racket strings which we acquired [illustrating].

In a somewhat smaller dimension, this sample of 32-mill nylon fiber is used for badminton strings, but notice it is simply one particular application of fiber or filament that happens to be a nontextile application, but does not change the nature of the material.

This sample is a hank of nylon fiber 75 mills in dimension, which is more one-sixteenth of an inch, which is being used in that woven or braided hose application. In this particular length and form it is made up for use as the bristles in streetsweeping machines. However, it still—this happens to be nylon 610, the less pliable of the varieties of nylon, but notice the ease with which it is possible to knot this material, demonstrating its pliability.

There is being imported from Germany, nylon fiber 98 mills of the nylon 6 variety, the quite pliable variety, being sold also for these very heavy duty bristle users, but it is simply a particular length of a nylon fiber whose dimensions make it suitable for that nontextile use, but do not change its characteristics as fiber.

This is a sample of polyvinyladinechloride, or polyvinyladine, I suppose, if you have had any chemical training, which I haven't—fiber. This is about 145 mills wide, which is a little wider than one-eighth of an inch.

This material, as you see, is quite pliable. I will show you what it is used for.

It is used for a woven article. It is a seat covering. This is woven on a loom, out of this material. I exhibit a sample of woven material made from the fiber just exhibited, which is about 140 mills wide.

Commissioner SUTTON. Seat cover for automobiles?

Mr. STEWART. It could be used for that purpose. It is also used as seat covers in trains, streetcars, and things of that sort.

I have one other form of fiber to exhibit. This is a sample of a filament which is one-quarter of an inch wide. This is cellulose fiber with a cotton core. We may not agree that this is a textile application. The particular use of this is in mop heads, because of its high absorption qualities. The cellulose material as you can see is highly cellular or sponge-like, but it is a manmade monofilament one-quarter of an inch wide.

Now, the characteristics of that material have been tailored to a particular nontextile use. It is nevertheless possible to produce continuous length of a fiberous material a quarter of an inch wide.

In the case of the natural fibers, nature itself has imposed the limits upon the properties that can be achieved and to a great extent the uses to which the natural fibers can be put.

In the case of manmade fibers, however, variations of the physical properties, the form, and dimension, and pliability, the tensile strength, the other qualities that are important to fiber uses are fairly much within the control of man. It seems to have been this versatility of use and versatility in physical properties which has led the staff to the tentative conclusion that some dividing line is necessary.

We propose to submit a written brief within the time allowed. I see that my time has more than run out, so if you will give me just a few minutes I will bring this to a conclusion.

The long and short of our position, recognize fiber material for what it is, and allow all fiber, all filaments, to be classified—that is, manmade fiber and filaments—to be classified under the manmade fiber schedule.

Do not attempt an arbitrary dividing line, seeking a distinction between textile and nontextile which we believe is well demonstrated cannot be achieved no matter where you draw the line. Furthermore, if the technology of this industry shows anything, it shows that you cannot adopt criteria for the future solely on the basis of today's products. To draw the line at one-sixteenth of an inch would already be an obsolete undertaking.

However, if the Commission in its wisdom feels that a dimensional dividing line is necessary to insure that all manmade fibers and filaments, regardless of ultimate use in a particular case, be classified under the manmade fiber schedule, then we would not object. We think you have not met this objective in drawing the line at one-sixteenth of an inch.

tent, resiliency, pliability, spinnability, luster, extraneous physical impurities, elongation, creep, durability, permeability, combustibility, and electrical properties.

"Although most fibers are used in the manufacture of fabrics and clothing, they have numerous other uses. For instance, the electrical industry employs fibers with high insulating qualities either inherent in the fibers or subsequently imparted to them. Other fibers find application in filling mattresses, pillows, and life preservers, where lightweight, resilience, and buoyancy are required. Fibers such as wool are used in felts, because they mat readily. Furthermore, it is possible to endow natural fibers with new properties or to create new manmade fibers, filaments, and yarns which will serve specific purposes. Some instances are high-tenacity rayon for cord tires, nylon for parachutes, and Bubblfil for life rafts and preservers."

It is apparent, therefore, that manmade fibers possess versatility in a double respect. On the one hand, there is considerable versatility in the properties, dimensions, and forms in which manmade fibers can be produced; on the other hand, there is a versatility of use not enjoyed by the natural fibers.

VERSATILITY OF FIBER PROPERTIES AND USE PROMPTS UNSOUND CLASSIFICATION PROPOSAL

This dual versatility of manmade fibers seems to be leading the staff of the Commission to the tentative conclusion that some other criteria would be desirable for the identification of the materials to be covered by the manmade fiber section of the textile schedule than that which the traditional textile terminology itself would accomplish. Accordingly, they have proposed a cross-sectional dimensional limitation.

From the point of view of versatility of form, the staff seems to have reasoned that a single strand of manmade fiber material could be achieved in a cross-sectional dimension so great that it could not conceivably be regarded as a textile material. Since the constituent matter for such a single strand could be the same as that from which monofilament or cut fiber of conventional cross-sectional dimension would be prepared, the staff appears to have reasoned that some cross-sectional dimension must be found which would mark the dividing line between textile and nontextile forms of manmade fiber material.

But this reasoning overlooks or does not give sufficient weight to the fact that the basic textile terms themselves, filament and fiber, may only be applied to material which is, in accordance with all of its properties, capable of being spun or of being woven into fabric, knitted, or used in other basic textile operations. In other words, the content of the term "filament" or "fiber" does not include properties which make the material unacceptable for such uses.

ONE-SIXTEENTH INCH AN ARBITRARY AND ILLOGICAL DIVIDING LINE

It is difficult to draw a dividing line on the basis of any cross-sectional dimension which will have more than temporary value. The staff has selected one-sixteenth inch in diameter as the dividing line between monofilament (that is, a single strand of fiber capable of textile use) and plastic material, a selection which is admittedly arbitrary. There is some justification for proposing one-sixteenth inch because the preponderance of the literature, and indeed the references in our own statements, suggest that contemporary manmade fiber does not usually exceed that width. But if the surge of technology in new fiber development in this industry shows anything, it shows that adopting classification criteria on the basis of the characteristics of commercial fibers at any particular moment of time is quite an unrealistic approach. For example, monofilaments of manmade fiber which are one-eighth inch at their greatest cross-sectional dimension now move in commerce for textile applications. This is twice the diameter of the proposed limitation. When it is considered that the heavy special purpose fabrics are now produced for industrial uses as well as for use in automobiles, aircraft, offices, and homes, it is not difficult to visualize that even this ⅛-inch diameter may be exceeded in the near future.

The various manmade fibers differ widely in their cross-sectional configuration. Very few of them are circular and some are extreme in their irregular cross-sectional configuration. A measurement at the maximum cross section of a fiber of irregular cross section can foreseeably yield a fiber which exceeds one-eighth inch at its greatest dimension and still be quite suitable for weaving into fabric, knitting, or other basic textile operations.

For all of these [illegible] it would be a serious mistake for the Commission to adopt [illegible] limitation referred to in the special note for part 12. We [illegible] is necessary for the Commission to attempt to [illegible] dimensional limit into the definition of manmade fibers. If the Commission, however, feels that it must take such an approach, we feel that the dividing line should be set at one-quarter inch in maximum diameter [illegible] individual filaments. So far as we know, this would adequately [illegible] present manmade fibers and leave some flexibility to provide for new [illegible] of the future.

BANDS OR STRIPS—A DIFFERENT PROBLEM

The problem of achieving a [illegible] definition [illegible] different from that of [illegible] of fibers. [illegible] has no historical [illegible] industry connotation. It [illegible] at the time of the enactment of the Tariff Act of 1930. It was [illegible] part of schedule [illegible] covering rayon or other synthetic [illegible]. At [illegible] was in commerce in a flat ribbonlike form of cellulose fiber which became known to the trade as artificial straw. Definitive treatment for this product was provided in paragraph 1305 of the Tariff Act of 1930. Whereas the terms "filament" and "fiber" carried their own definitive connotation of a textile product, the term "bands or strips" did not necessarily identify the intended product as one suitable for textile use. Therefore, the Congress in providing for so-called artificial straw in paragraph 1305 referred to "bands or strips not over 1 inch in width, suitable for the manufacture of textiles." The use of the phrase "suitable for the manufacture of textiles" was necessary to differentiate between ribbonlike material of cellophane or viscose which should be classified as a textile and other ribbonlike embodiments of these materials for any of the multitude of applications which these products have received outside of the textile world.

In recent years, bands or strips of manmade fiber material wider than 1 inch have been introduced for textile applications and now move in commerce in the United States. In line with the Commission's apparent desire to provide for all textile materials of manmade fiber in the manmade fiber section of schedule 3, we believe it appropriate to extend the classification criteria for band or strip material to accommodate widths in excess of 1 inch. We therefore recommend that the reference to bands or strips in the definition of manmade fiber be amended to change the dimension of 1 inch to 3 inches.

We also have no objection if in the case of bands or strips the standard of thickness not to exceed 0.01 inch is substituted for the phrase "suitable for the manufacture of textiles." The term "band or strip" is not a basic textile term or a term of exclusive textile connotation. It would therefore simplify the classification of bands or strips of manmade fiber material to adopt a set of dimensional criteria for the identification of products to be included in the manmade fiber section of schedule 3. A dimensional standard expressed in terms of a maximum thickness of 0.01 inch and a width in excess of one-quarter inch but not in excess of 3 inches would serve well for this purpose.

DEFINITION OF MANMADE FIBERS SHOULD CONFORM TO PUBLIC LAW [illegible]

Because the special note for part 12 appearing in the Commission's proposed schedule 7 indicates that the definition for manmade fibers set forth in schedule 3 will be modified in several respects; and because the special note does not make it clear whether the modifications referred to would exceed the incorporation of the dimensional limitations which we have just discussed, we feel it imperative to express our views on that definition.

In the first place, the definition of manmade fibers as proposed in schedule 3 without dimensional limitations is consistent with the Tariff Act of 1930.

The fact that the Congress in 1930 felt it desirable to use the term "suitable for the manufacture of textiles" in the case of bands or strips and did not use it elsewhere in schedule 13 offers the strongest intrinsic evidence of the acceptance by the Congress of the terms "filament" and "fiber" as generic classification terms which were to cover all such forms of material without regard to whether the ultimate use of particular importations was in or out of the textile area.

This expression of intention was clearly renewed this year by the Congress in the enactment of Public Law 87–645 redefining the term "rayon or other synthetic textile" in schedule 13. The statute itself states that the term "means any fiber, filament, or fibrous structure, and any band or strip suitable for

APPENDIX C

Letter from F.X. Regan, of E.I. du Pont de Nemours & Co. to Mr. Russell Shewmaker of the U.S. Tariff Commission (1959), published in 5 Tariff Classification Study, 591.

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E. I. DU PONT DE NEMOURS & CO.,
Wilmington, Del., December 15, 1959.

Mr. RUSSELL SHEWMAKER
*U.S. Tariff Commission,
Washington, D.C.*

REVISED TARIFF CLASSIFICATION—SCHEDULE 3

DEAR MR. SHEWMAKER: In accordance with your request and our several conversations, relative to the problems encountered in the proposed schedule 3, we have reviewed the matter with our technical and sales staff, and after careful consideration have agreed upon the following conclusions and recommendations:

The rapid development of the plastics industry since the enactment of the 1930 Tariff Act has given rise to a multitude of problems in customs classification and evaluation of fibers and related products such as are contemplated by the proposed schedule 3. As a matter of fact, it has also resulted in numerous problems and litigation in most of the other tariff schedules. It does not appear humanly possible to anticipate and provide for every possible contingency. It is possible, however, to examine and estimate possible or probable new developments which are likely to be commercial items within the next 10 years.

Manmade fibers and related products originate from materials developed by the chemical industry, and in many cases are of the same chemical composition although they have quite different physical properties in fiber forms as plastic materials offered by the chemical industry. Plastic materials differ chemically and have different properties which may make one more desirable than another for different types of uses. However, when it comes to the production of plastic materials, the same equipment produces polymer intended for use in a variety of ways. When the polymeric material is then further processed by being melted and extruded through a spinnerette, fibers (filaments) are produced. In some fiber forms these materials may have uses which are textile or nontextile, and for the most part they actually overlap in use.

The revised language of the proposed chemical schedule 4 will go far toward eliminating the difficulties of classification in most forms of plastic materials as such. However, schedule 4 is not intended and cannot be construed to cover fiber forms which because of their fibrous nature should be encompassed within the scope of proposed schedule 3.

We believe that most of the difficulties can be overcome by providing new definitive language which would make it clear that schedule 3, subpart E, is not limited in application to materials for textile use only. We believe that manmade filaments and fibers, together with bands or strips in certain dimensions, can and logically should be given the same customs treatment regardless of use. To do this, certain arbitrary definitions of measurements may be desirable. Accordingly, we suggest:

1. That the schedule titles be amended to read "Textile Fibers and Related Products;"
2. That definitions and specifications be provided for "manmade fibers," monofilaments, bands and strips, discontinuous filaments and waste;
3. That all references to suitability for use or limitations to chief use be eliminated from schedule E.

As you know from our discussions, these recommendations are being submitted to take care of problems which have been called to our attention by yourself and by our polychemicals and film department subsequent to the hearings on proposed schedule 3. As noted in our several conversations, you desired suggestions and assistance concerning dimensional specifications for possible use in conjunction with the terms "filaments," "fibers," and "bands or strips." Except for the more detailed specifications which we are submitting in response to your request, it is felt that the very able and comprehensive recommendations made on behalf of its industry by the Man-Made Fiber Producers Association should receive the favorable consideration of the Tariff Commission. Accordingly, we recommend that the framework suggested by that association be adopted, and we also endorse its position on the subject of duties. The attached schedule is consistent with the recommendations of the Man-Made Fiber Producers Association and incorporates our further suggestions regarding dimensional limitations.

You will note that we suggest expanded scope of the items covering bands and strips, denier, and width. At first glance, it may seem that the proposed limits are excessive, but, in accordance with your request, we have tried to look to the foreseeable future and anticipate expected and probable new commercial applications.

With respect to bands and strips we suggest a 3-inch upper limit, with a limitation on thickness of 10 mils. This suggestion is based on the current and foreseeable applications involving the bands and strips in both the textile and nontextile industry. For example, in the textile field, films are commonly split to the width of approximately 2 inches prior to final slitting yarn width. Initial slits up to 3 inches are already practical and are furnished to customers on request. In applications such as upholstery supports and as substitutes for buckram as a stiffening in curtains and draperies, film widths considerably in excess of 1 inch are required. Films of varying widths are used as a replacement for holland cloth in curtain tapes and in stationery applications. These may be more or less than the 1-inch limit currently being used. Other applications calling for material up to 3-inch width are electrical cable wrapping, capacitor dielectrics, slot liners in motors and generators, magnetic tapes and pressure sensitive tapes. (See examples delivered separately.)

Although manmade filaments and fibers may have originally been developed to replace their natural counterparts for textiles, modern technology has expanded their sphere of usefulness to include bristling materials for brushes, fibers for paper, belting, and many other applications totally unrelated to textiles. For example:

Filaments as large as 0.075-inch are currently being considered as reinforcement for small braided gasoline hose. Within the next few years it is feasible that filaments one-fourth-inch or greater in diameter will be required for this purpose, especially if used in larger hoses. We can readily visualize the use of such filament in flexible hose as large as one-eighth-inch diameter. Such a hose would be very useful in such applications as refueling lines for ships, aircraft, etc., where a high-strength, lightweight, nonmetallic support is important.

Large monofilament, either round, oval, or flat, is being considered as webbing for outdoor furniture. As styles change it is quite possible that filament as large as one-fourth-inch diameter or more will become common for this application, replacing or supplementing the smaller woven textiles now used. The use of large-diameter monofilament as reinforcement for large conveyor belts is under consideration. This, too, would be competitive for heavy woven textiles now being used. Under the circumstances, applications using up to one-fourth-inch may be anticipated to both textile and nontextile fields.

As now visualized, many of these uses would compete directly with currently used textile products.

Nylon filaments as large as 0.085-inch diameter, produced in Germany, are currently being offered in this country. While this material is predominantly intended for use in mechanical streetsweeps, it would probably be suitable for at least some of the above-mentioned applications. Filaments as large as 0.075-inch diameter are being used to convey animal hides through the various processing steps in the manufacture of leather. There is no reason why imported filament could not be used in this application also.

An interdigitating clothes fastener made from heavy coiled nylon monofilament is in the early stages of commercial development in this country. A similar fastener is already being produced in Germany and efforts have made by the Germans to sell the coiled filament in this country. (See sample delivery previously.)

Please accept our thanks for the time and courtesy extended to us by yourself and members of the staff, and if we can be of further assistance, please do not hesitate to call on us.

Respectfully submitted.

By F. X. REGAN, *Development Department.*

STATEMENT TO THE U.S. TARIFF COMMISSION ON "PROPOSED REVISED AND CONSOLIDATED TARIFF SCHEDULES, SCHEDULE 3, TEXTILE FIBERS AND TEXTILE PRODUCTS," BY THE ASSOCIATION OF COTTON TEXTILE MERCHANTS OF NEW YORK, NEW YORK, N.Y.

The Association of Cotton Textile Merchants of New York is composed of member firms which are sales divisions or sales agencies of cotton and other textile mills located throughout the country. Through them are marketed most

APPENDIX D

Comments of Mr. Russell Shewmaker of the U.S. Tariff Commission and Mr. E.L. Stewart representing the Man-Made Fiber Producers Association on the definition of man-made fibers, 5 Tariff Classification Study, 400, 436-438.

I wondered: do you have any proposals relating to physical size or description that would help to distinguish the products in this schedule from, say, the plastic provisions?

Mr. Stewart. We have not adopted a recommendation which would distinguish, for example, on monofilaments on the basis of size. We do, however, recognize that the experienced customs examiner, which we fortunately have in New York, would recognize that certain monofilament diameters were obviously not for textile use. We have not taken a position as to whether or not nontextile adaptations of manmade fibers may be classified properly other than under schedule 13. Our main interest is that by all odds, textile applications of manmade fibers go under schedule 13, so that if it were determined on the basis of experience, experience of the examiner, that a monofilament of a given diameter was not for a textile application, but was for use as bristles or strings, and therefore should be classified under the plastics provision, we would have no objection to that.

If it is possible to draw language that distinguishes on the basis of monofilament diameter that would not allow textile-sized monofilaments to be treated as other than textiles, we would have no objection to that. We would be happy to discuss such a limitation with you in response to your earlier invitation. We are available to you at your convenience to spend as much time as may be necessary in ironing out these problems.

I'll say this. We have a sample card which illustrates nontextile uses of monofilament and of something which you call either an artificial horsehair or a monofilament. One is bristles, and the other is nylon monofilament fishing line. Now, we submit that it is impossible to distinguish on the dimension of the monofilament itself in this form that is put up as fishing lines between a textile use and a nontextile use, unless it is cut to length when it comes in and you know that it is fishing lines. We think that it would be most unsound to adopt any provision that would allow nylon monofilament to be classified elsewhere than under the provision for monofilaments of manmade fibers, because it is possible to have some uses which are nontextile uses.

Mr. Shewmaker. Do you think that it is feasible to make this separation short of some physical description which, though it may have an element of arbitrariness about it, at least it is certain and, if it is properly drawn, would correctly separate imports in maybe 95 percent of the cases?

Mr. Stewart. I think you could get a dimension which, by and large, would exclude items which were not for textile application. We would not object to such a provision.

Mr. Shewmaker. We may be overplaying the complexity of the use provision, but I think we all feel and I know Mr. [illegible] here feels that there is a definite problem in determining uses when you are dealing with the many actual sizes and potential sizes of these manmade fibers.

Mr. Stewart. We agree with you, Mr. Shewmaker. We think that an approach based on use would be difficult to administer, would bring uncertain results, and would lead to general dissatisfaction, both to domestic producers and to importers. While importers would like to have what they regard as the proper and low rate, they also would like to have certainty. They are in sympathy with the objective of this study in the attempt to achieve certainty. So are we. The battleground is, what duty rate we are going to decide or pitch certainty on. We will agree to a dimensional limitation on monofils, provided it is one that does not run the substantial risk of excluding what we know to be general applications of textile monofils. We say that even though the duty may be higher elsewhere at the present time, the levels of a duty under our present rate techniques are a temporary, accidental, gratuitous thing, and it would be difficult for anybody to base their recommendations on what the existing rate of duty is.

Mr. Shewmaker. You apparently assume in your presentation that this new fiber K that you have produced is a monofilament. The samples that you submitted to us some time ago indicate that the product now made has a total denier of 300 with 16 individual monofilaments with no twist. As a matter of fact, on a fracture of this by breaking it, it does, as you pointed out, break into its individual filaments, and if you were desirous, you could completely separate fiber K into its 16 smaller size filaments.

Mr. Stewart. You would not get 16 usable filaments.

Mr. Shewmaker. Whether you would get 16 usable filaments, at least it retains its fibrous character. I am wondering, would you agree that there is some

Just a final word in regard to the definition of manmade fiber, itself. In the special note to part 12 of schedule 7, there is some indication that other modifications of the definition of manmade fiber which you proposed in schedule 3 may be entertained by you. I am sure that it is a familiar fact to you that after your hearings on schedule 3 members of each House of Congress sponsored legislation to amend the definition of rayon or other synthetic textiles in schedule 13. You also know, I am sure, that the Members of Congress had the benefit of your staff and the staff of the Bureau of Customs from the technical point of view, for the soundness of the legislative definition.

While the Commission called the attention of the congressional committee to certain factors that the committee might wish to consider as indicating that legislation was not now appropriate, the fact remains that the Congress enacted into law in August of this year a definition of rayon or other synthetic textile, and the legislative history makes it quite clear that Congress, concerned with the welfare of this industry, wanted to be sure that there would be no further complexities in the classification of the various kinds of manmade fiber. The Congress referred not only to the many new families of fibers that are under development, but also to the fact that there were nontextile uses of these fibers, some of which had been held to find classification outside of schedule 13.

Under these circumstances, where the Congress with all of that information before it, knowing that you were engaged in a study of the reclassification of the whole tariff schedules, undertakes itself to legislate into law a comprehensive definition of manmade fibers, which is what its definition of rayon or other synthetic textile is, we submit the Commission itself should pattern its definition after the action of the Congress.

We therefore request that the Commission, in formulating its own definition of manmade fiber, pattern it entirely upon the definition enacted into law this year by the Congress.

There is one possible exception to which we would acquiesce, although we do not ourselves advocate it. This is in the case of bands or strips. While on the one hand the words fiber and filament are concededly words of rich textile connotations which come down to us over many, many years, bands or strips is an artificial phrase which was coined at the time of the Tariff Act of 1930 to pick up artificial straw. Congress didn't qualify the terms fiber or filament in the rayon or synthetics textile schedule, but when it came to bands or strips it said bands or strips not over 1 inch wide, suitable for the manufacture of textiles.

If you in your wisdom feel it would be desirable to eliminate that subjective phrase, suitable for the manufacture of textiles, in conjunction with bands or strips, we would have no objection. We feel that if you undertake to do so you may wish to recognize that band or strip material for textile uses is now moving in commerce in widths which exceed 1 inch. Otherwise, we have no objection to your criteria of a thickness of 10 mills or one one-hundredth of an inch.

If we disagree with you, with emphasis, it is not because we feel that your conclusions are the result of superficial thinking. To the contrary, it is because we know of the careful study that you have made and your capacity for enthusiasm for your conclusions so patiently arrived at, that we ourselves put to you with all our strength the request that you reconsider any modification, any basic deviation from the definition of manmade fibers enacted into law by the Congress, and that you be most careful in engrafting any dimensional limitation on that definition.

Thank you very much.

Chairman Brossard. Any questions? Mr. Shewmaker?

Mr. Shewmaker. This area of making a dividing point between textiles and nontextiles is a very troublesome one. I am afraid that I don't completely agree that the word "filament" is rich and pregnant in meaning, textilewise. We have not found it so. We have found quite a diversity of opinion concerning the concept of "filament" in a textile sense getting into these very—I say very—it is a relative term, very large diameter, rigid, or relatively rigid and stiff manmade products.

As a matter of fact, some of the uses that I saw here demonstrated in the samples, even of the very small diameter filaments, were more as a reinforcing medium. They themselves were not woven, but they were woven around. You can literally pull them from it, and the very soft smaller filaments were those things that were actually made into yarns and woven to make the fabric.

The problem was wrestled with by those who formulated the definitions in the Brussels Nomenclature. Their point of division between manmade fibers and plastics products—and any point of division does have certain elements of arbitrariness, that is conceded—is 1 millimeter.

Your proposed one-sixteenth of an inch, which you are correct in assuming would apply, in the case of grouped filaments, to the individual filaments and not to the group as a whole, is 1½ times—the one-sixteenth inch is 1½ times 1 millimeter.

I have no doubt that a quarter of an inch, as you propose it, would catch all textile filaments. From the data we have assembled, however, even if you take a broad view of a textile, and particularly if you reason from the natural fiber counterpart that man was imitating, we think, 90 percent of the cases, if not 100 percent, would be embraced within the one-sixteenth inch.

The difficulty that we have experienced comes from the fact that, when you are dealing with natural fibers, the basic construction unit has always been small individual separated fibers which are capable of being spun into yarn.

The customs courts have been unwilling in some instances to think of that little fiber as a filament. That is the reason they held that the provisions of paragraph 1529(a) did not cover a numdah rug that was a felted product that had been embroidered. In that case, the individual fibers had not been spun into a yarn and they were held not to be filaments.

In general, their concept of a filament has been that it is a fine threadlike affair.

In the natural fiber field, vegetable fibers, which have not been separated, have been treated elsewhere in the schedules for tariff purposes, and never as a textile. They are basketry and related products, made or woven from rattan, cane, peel, bamboo, raffia, chip, and so forth. If you were going to draw a distinct parallel between natural and manmade products, a product such as this one (pointing to exhibit) would be more nearly in line with the cane bottom chair type of thing, and would not be typically characteristic of the traditional textile made of natural fibers.

If I understand correctly, one of the characteristics that you find in the traditional textile is that it can be worked back on itself. In other words, when you come to the end of the weft you can reverse direction and work the yarn back and forth. Also, you can knit it. As to most of these manmade products you are demonstrating, you may be able to tie them into knots with a little exertion, but I don't know how suitable they would be in typical textile machines for weaving, knitting, and other typical textile operations, although quite obviously they can be used to reinforce fabrics and other textile products as they have been in some of these products that you have submitted.

I only make this statement to elaborate a bit on the thinking that is implicit in this special note that we issued not as legal language, but as informative matter to give notice of some of the thinking that had been going on. Inasmuch as we were treating in part 12 with provisions for plastic products which are complements to the provisions for manmade textile products, we wanted to take this opportunity to expose for possible consideration in the public hearing the thinking that we have had up to this point on the establishment of a reasonable line of demarcation that would give greater certainty to the provisions for manmade fibers in the textile sense, and to those covering the very closely related filaments that would be over with the rods and filaments that are quite outside of the dimensions of the usual textile product.

I don't have any questions.

Mr. STEWART. I would like to make just three very brief responses to what you said, Mr. Shewmaker, and your remarks are very helpful. First, there was no command in the Customs Simplification Act of 1954 that you use as a classification criterion textile and nontextile in any sense. The command that is there is, the classification system you do achieve provide for a logical division of products.

Here we have the products of a new industry, manmade fiber-producing industry and to distinguish between some and others on the basis of textile and nontextile, I think can be seen from what I have demonstrated today, would not be logical, definite, or certain, and when the Congress, itself, legislated on this matter in August of this year, it was aware that there were nontextile applications. Its concern was that the new families of products of the manmade fibers be treated under schedule 13, which they regarded as a generic classification place for any fiber or filament, manmade.

We would hope that you would feel that a classification where you put all manmade fibers and filaments into one section for classification purposes would answer the mandate Congress laid upon you to achieve a logical division, using logical terminology with particular classification results.

Mr. SHEWMAKER. It is my understanding this term "manmade fibers" is a development of recent years as a term, to replace the earlier language such as that found in the Tariff Act, "rayon or other synthetic textiles."

I don't get the impression that anyone in coining the term or using it was trying to develop a connotation beyond "textile." It is used in some instances to get away from the term "synthetic." In general, producers don't like to employ that term in their promotion schemes. I never have gained the impression from any of the literature I have read or from any of the discussions I have had with textile people that the term was developed in an enlarging sense.

It is a replacement for a textile term, and is in itself a textile concept, not one that would reach out and embrace all nylon rods, or all manmade rods up to a quarter of an inch.

Mr. STEWART. We are not quarreling about where you put rods. We say when you call something fiber or filament, it has no necessary metes and bounds so far as dimension is concerned; that it is a product of this industry whose characteristics make it suitable for a textile use. It doesn't have to be on the basis of weaving.

Once you recognize something as a fiber, it should go under the manmade fiber schedule regardless of the particular use for which it is made.

As you know, current customs practice is to put nylon bristles under schedule 13, and that was reaffirmed just the other day by the Bureau of Customs in a Treasury decision, without regard to the dimensions of the bristle material, referring to it as "bristle material," which is a recognition that it is nontextile.

Mr. SHEWMAKER. Well, I think you yourself pointed out, and, of course, we were quite aware of the fact, that nylon has numerous applications, including in the case of some soft baby brushes, some very fine filament material that obviously if it were in longer lengths could be woven.

We are not disputing there are these bristle uses, these other uses of the monofilament. The fact remains, though, that the term "fiber" itself, like "filament," is generally thought of in terms of small dimension.

The Webster's Collegiate Dictionary here says, "A thread or threadlike structure or object * * * Collectively, any tough substance composed of threadlike tissue, especially when capable of being spun and woven."

Traditionally in the textile sense, it has revolved around a very fine type of filament, nothing that approaches the dimensions that we are now capable of getting in the manmade field.

It was our effort to use this term "manmade fiber," which is used right straight through our textile schedule in dealing with many, many textile products, as a textile term.

It was for that reason we felt that, as with the natural fibers, so with the manmade fibers, when you are looking at a particular product, you find in it a basic construction unit that will permit you to say: this is a manmade textile product. That is essentially what our effort is, one of giving substance to the term, a greater clarity, such as you get from a conception of physical dimension, and cannot get from one where you are constantly confronted with chief use or "some other use" conception.

We are trying to get this into an objective schedule, that will not have these subsidiary problems.

So that is all I have to say on that particular part.

Mr. STEWART. Our position will be developed further in our brief, Mr. Chairman.

Chairman BROSSARD. All right.

Mr. STEWART. Thank you for your patience. I always seem to be prolonging the end of the day at these hearings.

Chairman BROSSARD. Thank you. You always present a clear case. Is there anybody else to be heard today?

Secretary BENT. As far as I know, that completes the schedule of witnesses.

Chairman BROSSARD. Are there any other witnesses to be heard?

(No response.)

Chairman BROSSARD. Is there any other business to be brought before this hearing?

STATEMENT OF JOHN C. DATT, SECRETARY AND DIRECTOR OF THE WASHINGTON OFFICE, AMERICAN FARM BUREAU FEDERATION

Mr. DATT. I am John Datt, secretary and director of the Washington office for the American Farm Bureau.

The farm bureau opposes S. 230, which would substantially increase the duties on polypropylene cordage and twine. If passed, this legislation would significantly increase the duties on bailer twine to American farmers. It is estimated that the proposed duties would add about $4 per bail, or about 20 cents per pound, to the cost of the imported bailer twine.

Some years ago Congress exempted imported sisal bailer twine from import duties. We believe that this new material should be accorded the same treatment.

Our affiliated service companies market to our farmer members about 120,000 bales of sisal twine and about 15,000 bales of polypropylene twine each year. However, the use of plastic cordage is growing, and this material is also used in hay bags, hay sleeves, and hay covers, which are a recently new development in agriculture.

The more competition we have in the twine and cordage market, the lower will be the farmers' production costs.

Farm income has suffered greatly in the last several years. A combination of rising production costs and low commodity prices has put U.S. farmers in a financial bind.

Mr. Chairman, our plea is simply for help in holding our production cost down. We need keener competition in farm supplies in order to hold down our costs. This is why we oppose S. 230.

Thank you very much.

[The prepared statement of American Farm Bureau Federation follows:]

★ FARM BUREAU ★
★★ the nation's largest general farm organization ★★

STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION TO THE SUBCOMMITTEE ON INTERNATIONAL TRADE OF THE SENATE FINANCE COMMITTEE REGARDING S. 230

Presented by
John C. Datt, Secretary and Director, Washington Office

October 21, 1983

American Farm Bureau Federation
Washington Office — 600 Maryland Ave., SW, Washington, DC 20024. Phone: (202) 484-2222

STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION TO THE SUBCOMMITTEE ON INTERNATIONAL TRADE OF THE SENATE FINANCE COMMITTEE REGARDING S. 230

Presented by
John C. Datt, Secretary and Director, Washington Office

October 21, 1983

Farm Bureau opposes S. 230, which would substantially increase the duties on polypropylene cordage and twine. If passed, this legislation would significantly increase the duties on baler twine to American farmers. It is estimated that the proposed duties would add about $4 per bale or $.20 per pound to the cost of imported polypropylene baler twine. Some years ago, Congress exempted imported sisal baler twine from import duties. We believe that this new material should be accorded the same treatment.

Our affiliated service companies market to our farmer members about 120,000 bales of sisal twine and around 15,000 bales of polypropylene twine each year. However, the use of plastic cordage is growing and this material is also used in "hay bags", "hay sleeves" and "hay covers".

The more competition we have in the twine and cordage market, the lower will be the farmers' production costs.

Farm income has suffered greatly in the last several years. A combination of rising production costs and low commodity prices has put U.S. farmers in a financial bind.

Mr. Chariman, our plea is simply for help in holding our production cost down. We need keener competition in farm supplies in order to hold down our costs. This is why we oppose S. 230.

SUMMARY OF PRINCIPAL POINTS
AMERICAN FARM BUREAU FEDERATION STATEMENT
REGARDING S. 453

1. Mr. Chairman, in a letter to your Committee on September 9, 1983, we stated our strong support for Senator Warner's bill, S. 453, which would impose a one-tenth of one cent per gallon duty on apple juice.

2. The purpose of this duty increase is merely to provide a way to place subsidized Argentine apple juice imports into a dutiable category which would enable Farm Bureau to file a countervailing duty petition without the loss of time and tremendous expense of "proving injury" to the domestic apple industry.

3. Over the past seven years, the quantity of apple juice imported into the U.S. has grown from 34 million gallons in 1976 to 104 million gallons in 1982. This represents the equivalent of more than 30 million bushels of apples, a figure greater than an average annual production of Michigan and Pennsylvania.

4. Twenty-three million gallons of the increase are from Argentina, which shipped about 19 million gallons in 1976 and about 42 million gallons in 1982. This quantity alone represents the total annual apple production in the state of Virginia.

5. The Foreign Agriculture Service and other government agencies have the evidence that the Argentine Government does indeed assist the producers and exporters of Argentine apple juice.

6. The apple growers of the U.S. are being hurt badly by the subsidized imports of apple juice from Argentina. These growers need help from their government in order to compete with the subsidized imports from Argentina. We realize that countervailing duty procedures are available, and we plan to exercise such procedures. However, if our farmers must prove industry, this is time-consuming and very expensive, with cost running from $75,000 to several hundred thousand dollars to carry a petition through the necessary procedures if "injury" must be proven.

STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION TO THE SUBCOMMITTEE ON INTERNATIONAL TRADE OF THE SENATE FINANCE COMMITTEE REGARDING S. 453

Presented by
John Datt, Secretary and Director, Washington Office

October 21, 1983

Farm Bureau appreciates the opportunity to comment on a tariff bill which has been referred to your Subcommittee on International Trade. S. 453, a bill Farm Bureau strongly supports, would impose a 1/10 of 1 cent per gallon duty on imported apple and pear juice.

The purpose of the 1/10 of 1 cent per gallon duty on apple and pear juice imports is merely a way to place subsidized Argentine apple juice imports in a dutiable category enabling Farm Bureau to file a countervailing duty petition without the bother and tremendous expense of proving "injury" to the domestic apple industry.

Farm Bureau is keenly interested in the passage of S. 453. This bill was introduced by Senator Warner and now has 15 cosponsors.

Over the past seven years, the quantity of apple juice imported into the United States has grown from 34.38 million gallons (single strength equivalent) in 1976 to 103.76 million gallons in 1982. Foreign apple juice is imported in concentrated form for reconstitution in this country. This represents the equivalent of more than 30 million bushels of apples, a figure greater than the average annual production of Michigan and Pennsylvania combined.

Twenty-three (23) million gallons of the increase are from Argentina which shipped 18.86 million gallons in 1976 and 41.95 million gallons in 1982. The quantity imported in 1981 represents 10.67 million bushels of apples, more from Argentina alone than the total annual apple production for the State of Virginia.

The dramatic increase in apple juice imports is a major concern to U.S. apple growers. Their concerns are magnified when we find that the government of an exporting nation is providing a substantial subsidy to the processors and exporters of that product. Farm Bureau finds a willingness of its members to compete with growers in other countries on a fair basis, but they cannot compete with the treasuries of other countries.

Attached are data providing the levels of imports from foreign sources for the period 1965-1983, and the quantities of apples represented by such imports. Also attached is a review of the subsidy schemes provided by the Argentine Government to its apple industry to develop export capabilities.

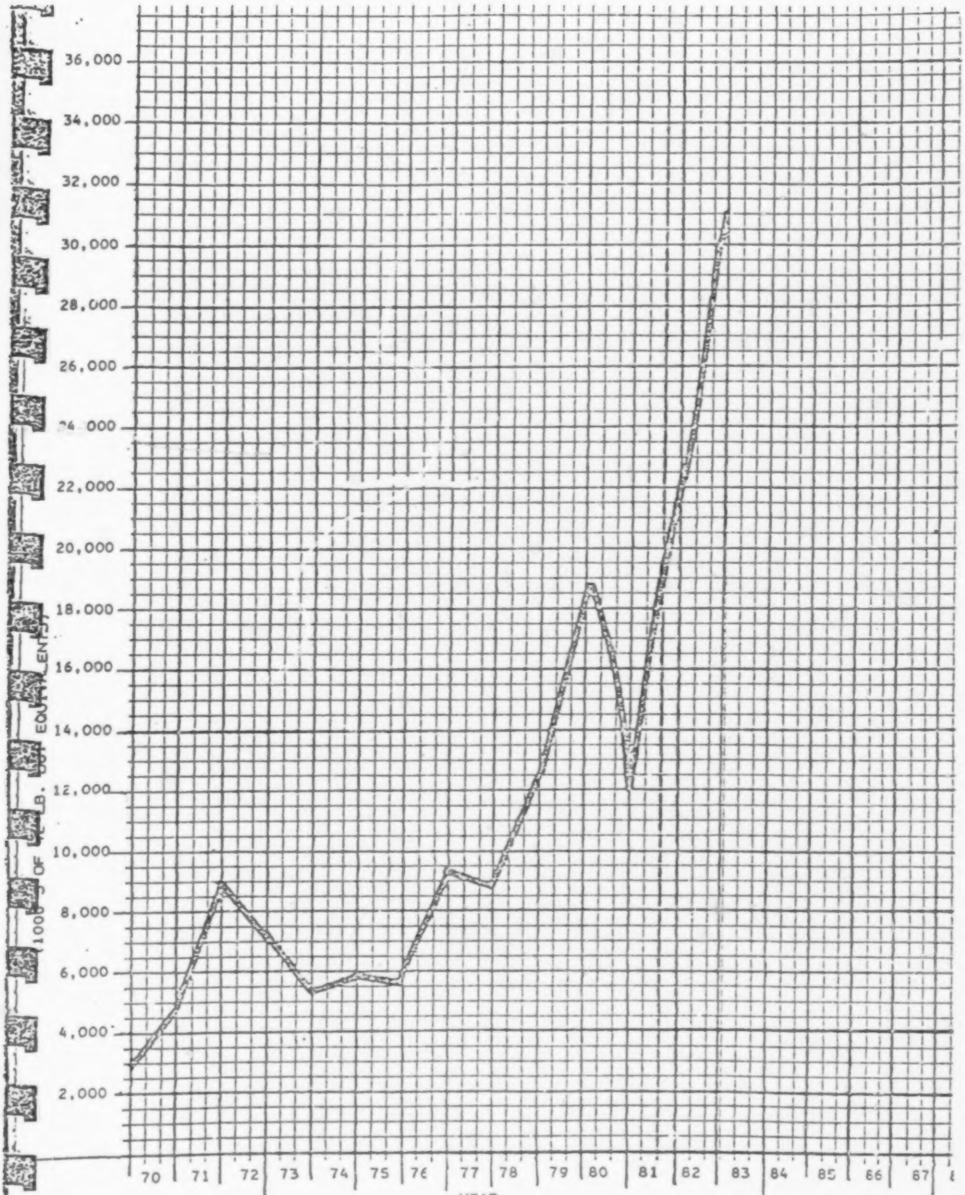
It is obvious from the information available to us that the Government of Argentina is indeed subsidizing its exports of apple juice into the United States' market to the detriment of U.S. apple growers and processors of domestic apple juice.

The Tariff Schedule of the United States provides a zero (0) duty on apple and pear juice imported from countries which enjoy the "Most Favored Nations" designation. Argentina has been so designated. Imports of apple and pear juice from countries not enjoying "Most Favored Nations" designation are subject to a duty of five (5) cents per gallon under T.S.U.S. Item No. 165.15. Apple and pear juice are the only juice imports free of duty under the M.F.N. category.

Since apple juice currently is not dutiable, the domestic apple juice industry would have to allege and the International Trade Commission would be required to determine "material injury" before a countervailing duty could be put into place to offset the Argentine subsidy advantage. Therefore, the purpose of S. 453 is to impose a minor duty on apple juice imports in order to place Argentina in a category whereby the Department of Commerce could investigate the export subsidies of Argentina with regard to apple juice and, if found to be as alleged, could initiate a countervailing duty action that would offset the Argentine subsidy advantage. This could be done without apple growers having to resort to costly legal fees to take their case before the International Trade Commission to prove material injury to the apple juice industry.

Farm Bureau will encourage those suffering from this practice to seek relief by petitioning the U.S. Department of Commerce to investigate these subsidies and if their findings are positive to instruct the Customs Service to apply countervailing duties as provided under Section 303 of the Tariff Act of 1930.

We urge that S. 453 be approved by your Subcommittee and that it be passed by the Congress to enable U.S. producers to seek relief from the subsidies provided by the Government of Argentina on apple juice exports from their country.



SOURCE: USDA FOREIGN AGRICULTURA[illegible]VICE

[illegible]

with a grace period of two years. (About $10 million U.S. worth of loans were utili

by the CAJ sector.

PREVIOUS LETTERS FROM FAS CABLED FROM ARGENTINA 6-26-81, Joseph F. Somers, AG Counsel

- 1980 GOA established a 10% export rebate for fresh apples and pears.
- ✓ - January, 1981, interest free loans with repayment of 10 years for CAJ exporters. 247
- ✓ - February, 1981, export rebates of 10% for all products exported through Patagonian ports. (In April, 1981 this was reduced to 7%)

10-19-81 JAMES V. PARKER - AG Counselor

- June, 1981, CAJ was included in the "value added" products allowing CAJ exporters to exchange 10% of export earnings at the higher financial rate.
- August, 1981, prefinancing covering 60% of the FOB export value of CAJ. Repayment of one year and 1% per annum.

In 1977, Michigan apple grower Jerry Sietsema visited Argentina and toured CAJ plants The plant manager told Mr. Sietsema:

a. The plant, Villa Regina, Argentina, is four years old and is tax free for 10 years (no property tax) because it is an apple juice plant.

b. There is a 10% direct subsidy on every dollar of product sold abroad.

TOTAL APPLE & PEAR JUICE IMPORTS

YEAR	TOTAL GALLONS	TOTAL 42 LB. BU.
1965	5,049,295	1,402,582
1966	3,080,203	855,612
1967	2,535,422	704,284
1968	10,908,738	3,030,205
1969	14,168,506	3,935,696
1970	16 834,532	4,678,759
1971	34,112,513	9,475,698
1972	25,632,907	7,120,252
1973	20,697,580	5,749,328
1974	21,495,957	5,986,623
1975	21,216,285	5,908,737
1976	34,387,544	9,576,259
1977	31,906,859	8,886,058
1978	44,394,152	12,363,770
1979	66,501,098	18,472,527
1980	43,520,365	12,089,324
1981	81,602,668	22,667,408
1982	103,758,056	30,880,374
1983*	63,560,371	18,973,245

*1983 JANUARY - MAY ONLY

FOR COMPARISON:

JANUARY - MAY 1982	28,448,347	8,492,044
JANUARY - MAY 1983	63,560,371	18,973,245

CONVERSION: 3.35 GAL/BU.

SOURCE: FAS-USDA, SINGLE STRENGTH EQUIVALENT GALLONS AND 42# BU RAW FRUIT EQUIVALENT

APPLE JUICE IMPORTS - S/S EQUIVALENT

COUNTRY	1976 GAL.	1976 42 LB. BU.	1977 GAL.	1977 42 LB. BU.	1978 GAL.	1978 42 LB. BU.	1979 GAL.	1979 42 LB. BU.	1980 GAL.	1980 42 LB. BU.	1981 GAL.	1981 42 LB. BU.	1982 GAL.	1982 42 LB. BU.
CANADA	151,718	42,253	1,225,533	341,311	945,974	263,454	449,434	124,843	441,977	122,771	1,418,218	393,949	1,323,249	395,000
AUSTRIA	126,373	35,195	370,029	103,053	276,938	77,127	1,063,959	295,544	1,594,972	443,047	870,080	241,689	3,776,689	1,127,370
BULGARIA	146,006	40,663	404,016	112,518	216,916	60,411								
FRANCE	619,275	172,468	1,885,776	525,189	1,111,901	309,664	5,678,321	1,577,311	4,160,047	1,155,568	1,491,651	463,014	1,948,382	581,607
GERMANY, WEST	28,126	7,833	73,849	20,567	14,453	4,025	920,711	255,753	2,775,862	771,072	6,700,798	1,861,383	14,268,396	4,259,223
ITALY	369,213	102,826	430,198	119,810	184,100	51,272	446,902	124,139	784,359	217,877	18,205	5,057	140,185	31,100
SPAIN	179,192	49,905	844,300	235,138	375,404	104,550	1,854,545	515,151	1,587,090	440,853	3,297,474	915,965	7,938,848	2,369,805
SWEDEN	2,420	674			7,049	1,963					71	20		
ARGENTINA	18,859,167	5,252,000	16,987,603	4,731,047	30,160,744	8,399,767	40,716,515	11,310,143	18,338,613	5,094,059	40,570,199	11,289,500	41,946,650	12,251,388
CHILE	57,753	16,084	30,510	8,497	778,261	216,746	733,630	203,786	459,228	127,563	2,152,007	597,780	1,623,372	484,589
MEXICO	158,757	44,214	344,235	95,869	394,566	109,887	822,758	228,543	1,351,808	375,502	2,422,317	672,866	3,024,918	902,961
AUSTRALIA	103,030	28,694	972,540	270,852	3,710	1,033			12,614	3,503	52,416	14,560	175,520	52,394
CHINA-MAINLAND	53	15	1,424	397	152	42	2,978	827	484	134				
ISRAEL	281,848	78,495	241,311	67,205	1,092,326	304,213	1,026,358	285,099	603,669	167,686	1,874,687	520,746	2,215,825	661,440
JAPAN	27,255	7,591	314	87					306	85			234	70
NEW ZEALAND	1,418,532	395,061	801,531	223,226	697,312	194,201	361,942	100,539	501,902	139,417	2,612,241	725,623	2,933,904	875,792
SOUTH AFRICA	11,859,828	3,302,962	4,604,951	1,282,479	4,717,044	1,313,697	7,748,099	2,152,249	7,607,375	2,113,160	12,019,592	3,338,776	10,905,626	3,255,411
URUGUAY											654,066	181,685		
OTHER			2,638,739	732,983	3,417,302	949,251	4,742,500	1,317,361	3,330,059	925,014	5,448,846	1,513,512		3,362,224
TOTAL	34,387,544	9,576,933	31,856,859	8,870,228	44,394,152	12,361,303	66,568,652	18,491,288	43,550,365	12,097,313	81,602,668	22,667,408	103,758,056	30,880,374
TOTAL U.S. UTILIZATION FOR JUICE		26,407,000		30,171,000		35,229,000		45,452,000		49,926,000		45,691,000		34,731,000 EST.
DOMESTIC & IMPORTED JUICE		35,933,933		39,041,228		47,590,303		63,943,288		62,023,313		68,358,408		65,611,374
% OF TOTAL UTILIZED COMING FROM IMPORTS		26%		22%		26%		29%		20%		33%		47.1%

SOURCE: USDA FOREIGN AGRICULTURAL SERVICE

TOTAL VALUE OF APPLE JUICE CONCENTRATE
U.S. DOLLARS

	1977	1978	1979	1980	1981	1982
CANADA	723,325	607,180	587,983	672,514	1,395,956	1,746,284
AUSTRIA	228,061	230,090	1,230,024	1,303,626	598,448	3,522,043
BULGARIA	248,189	140,533				
FRANCE	1,381,238	1,270,090	7,427,614	4,333,058	1,449,649	2,319,052
GERMANY, WEST	56,404	58,948	887,950	2,632,434	5,148,107	12,517,460
ITALY	339,665	236,047	445,157	553,208	50,487	142,119
SPAIN	643,579	500,439	1,876,755	1,410,151	2,911,983	7,417,324
SWEDEN		14,064			299	
ARGENTINA	14,281,117	24,473,080	39,617,474	17,319,472	27,225,955	36,250,807
CHILE	16,033	726,621	646,075	330,354	1,508,033	2,082,783
MEXICO	315,434	392,758	930,528	990,832	2,831,238	2,839,929
AUSTRALIA	784,284	23,605		10,813	39,387	138,634
CHINA, MAIN	2,271	784	3,825	1,910		
ISRAEL	135,896	866,229	822,262	741,819	1,460,772	2,145,825
JAPAN	821			1,900		
NEW ZEALAND	437,606	691,473	385,429	370,944	2,045,947	2,802,472
SOUTH AFRICA	3,561,717	4,306,305	7,489,938	6,380,812	9,112,657	9,148,190
URUGUAY					325,261	
OTHERS	1,726,038	2,451,633	4,588,245	3,011,753	4,122,958	9,261,205
TOTAL	24,890,678	36,989,879	66,939,259	40,065,600	60,227,258	92,334,127

SOURCE: USDA FOREIGN AGRICULTURAL SERVICE

The following is based on information received from the Foreign Agriculture Service, USDA:

1) About 12 concentrating plants are operating in Argentina this year, however, som are very small.

2) About 65% of the apples for processing go to concentated apple juice (CAJ).

3) The country of destination for concentrated apple juice (CAJ) remains unchanged i.e. mostly the U.S.

4) a. the current export rebate for CAJ is 10%, plus 10% for shipments going throug Patagonia port of Puerto Madryn. Reportedly, almost half of 1981 season shipments to advantage of shipping through Puerto Madryn.

b. CAJ is also eligible for an "additional" export rebate of 15% for the six mon period ending next April 21.

c. Since late August, CAJ exporters have also been eligible for pre-export financ covering up to 60% of the export value, with interest at one percent per annum and a repayment term of 120 days.

d. The 10/90% financial/commercial exchange rate mix is still in effect for CAJ exports. Currently, the financial rate has increased to almost 60% above the commerci rate level. (financial rate is 11,000 pesos per US$, commerical rate is 6,942 pesos per US$), thus increasing the export value edge over non-value added products such as apples by six percent.

e. Given the current situation, all plants which operated this year are expected in operation for 1982. Sources expected a normal to good year.

f. Sudden pesos devaluations this year occured as follows: Feb 2-10%, April 1-30 June 1-30%, July 22-30%; (the two-tier exchange rate system was applied only to the financial rate with a few exceptions, export transactions utilize the commercial rate) (If loans are available for CAJ shippers because of the devalued peso $180 U.S. per me

Senator DANFORTH. Do you have any questions, Senator Mitchell?
Senator MITCHELL. No questions, Mr. Chairman.
Senator DANFORTH. Gentlemen, thank you very much.
Senator Mitchell has an interest in two bills which we will take up at this point if the witnesses are available, S. 759—Mr. Hoffman, Mr. Fritt, and Mr. Williams.

STATEMENT OF RICHARD S. HOFFMAN, LAW OFFICES OF GEORGE R. TUTTLE, WASHINGTON, D.C., REPRESENTING SEVERAL PACIFIC NORTHWEST IMPORTERS OF SALMON GILL NETTING

Mr. HOFFMAN. Mr. Chairman, my name is Richard Hoffman. I am an attorney with the George R. Tuttle law offices. I would like to thank the committee for this opportunity to express the views of our clients in support of bill, S. 759, which would reduce the rate of duty on certain fish netting and fish nets from the present rate of 18 cents per pound and 28 percent ad valorem, down to 17 percent ad valorem with no per-pound assessment.

Our clients are nine Pacific Northwest fishing equipment suppliers who import primarily salmon gill netting from Japan. We are acutely aware and sensitive to the problems which the present high tariff rate has created for fishermen who rely on imported nets of a type that is not generally manufactured in the United States.

At the same time, we are supportive of the agreement negotiated pursuant to GATT which provides for a gradual reduction of the rate for item 355.45 to 17 percent by 1989.

A delay in the reduction serves no useful purpose, and we urge acceleration to 17 percent as soon as possible, in order to provide benefits to the American fishermen at the earliest date.

Our review of the history of the assessment of duties on fishnetting points out that unusually high duty rates have existed for some time, and yet the domestic industry has not produced certain types of netting. Where it has not, imports have been turned to—for example, salmon gill nets.

During the hearings on House companion bill H.R. 2042, the domestic industry made numerous claims for the need for protection of the current high duty rates; however, the committee should note that the domestic industry has generally succeeded and been profitable in areas where it has produced quality nets. Where it has not, imported fish netting has been required to allow American fishermen to compete in fish production markets.

The high duty rates do not help the domestic industry but rather hurt the competitive position of American fishermen. This is particularly evident with respect to salmon gill netting. This product was not successfully produced in the United States, due to the lack of necessary technology rather than import competition.

Japanese netting has been higher priced than the domestic products offer. The price has not been a major factor, and high duties are not likely to change the American fishermen's need for imported netting.

In conclusion, Mr. Chairman, there are few industries in the United States which presently benefit from even a 17-percent tariff rate. The reduced rate certainly affords adequate protection for the domestic industry, and at the same time reduces the burden on the American fishermen of the unusually high tariff rates.

Therefore, it is respectfully requested that Senate bill 759 be given your full support.

Again, we thank you for this opportunity to present our views.

Senator DANFORTH. Thank you, sir.

[Mr. Richard S. Hoffman's prepared statement follows:]

BEFORE THE SUBCOMMITTEE ON INTERNATIONAL
TRADE OF THE COMMITTEE ON FINANCE OF
THE UNITED STATES SENATE

TESTIMONY OF RICHARD S. HOFFMAN OF THE LAW OFFICES OF GEORGE R. TUTTLE IN SUPPORT OF S. 759 TO REDUCE THE RATE OF DUTY ON CERTAIN FISH NETTING AND FISH NETS

October 21, 1983

Law Offices of George R. Tuttle
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BEFORE THE SUBCOMMITTEE ON INTERNATIONAL
TRADE OF THE COMMITTEE ON FINANCE OF
THE UNITED STATES SENATE

October 21, 1983

SUMMARY OF MAJOR POINTS IN TESTIMONY OF RICHARD S. HOFFMAN IN SUPPORT OF S. 759

1. Current tariff rates for fish netting are excessive and should be immediately reduced to the amount negotiated at the General Agreement on Tariffs and Trade of 17%. This reduction is necessary to protect the U.S. fishing industry from excessive costs for quality fish netting.

2. The domestic fish net manufacturers have had the benefit of a comparatively high tariff rate since the enactment of the Smoot-Hawley Tariff in 1930 and therefore their claims that a high tariff is necessary to allow for a strengthened industry merely serve as a smokescreen for the failure of the industry to vigorously and competently pursue the manufacture of marketable and efficient fish netting for the American fisherman.

3. There are a number of reasons the domestic netting industry may have had problems, none of which are related to the tariff rate. Where the domestic industry has provided high quality netting, they have controlled the market. Where they have not, imports have controlled the market. Pricing has not been the main factor. For example, in the salmon gill netting sector of the industry, the Japanese have supplied the bulk of the market despite prices much higher than those of the domestic industry. Therefore, a change in tariff rate will not generally affect the domestic industry.

4. Few industries in the United States are given the benefit of even a 17% tariff on similar imported items. Therefore, this reduction is not drastic and is necessary to increase the productivity of our American fishing industry which must depend to some degree on imported netting.

TESTIMONY OF RICHARD S. HOFFMAN
IN SUPPORT OF S. 759

October 21, 1983

I. SUMMARY AND INTRODUCTION

I am Richard S. Hoffman, an attorney with the law offices of George R. Tuttle, appearing today before the Subcommittee on International Trade of the Committee on Finance of the U.S. Senate in support of S. 759, on behalf of the following Pacific Northwest importers of salmon gill netting:

1. Seattle Marine Fishing Supply Co.;
2. Nordby Supply Co.;
3. Redden Net Co.;
4. Fisheries Supply Co.;
5. Lummi Fisheries Supply Co.;
6. Nets, Inc.;
7. Tacoma Marine Supply;
8. Astoria Marine Supply, and;
9. Englund Marine Supply.

As importers of salmon gill netting, all of our clients are acutely aware of the problems which the excessive tariff rates for fish netting of manmade fibers pose for their customers. Our clients do not seek a windfall from this legislation. Rather, they hope to encourage and sustain the industry upon which their livelihood depends -- the United States fishing industry. In this regard, it is important that all of our clients currently have substantial dealings with the United States manufacturers of fish netting. However, fishermen are at times required to import based on availability and qualitative factors as will be explained in the body of this statement.

The Senate Bill, S. 759, would amend the Tariff Schedules to reduce the tariff rate for TSUS Item 355.45 (fish netting and fish nets of manmade fiber) from the present rate of eighteen cents per pound and 28% ad valorem to 17% ad valorem with no per pound assessment. The General Agreement on Tariffs and Trade provided for a gradual reduction of the rate for Item 355.45 to 17% in 1989 and S. 759 would simply accelerate the reductions to this rate on or after the enactment of this bill by Congress.

II. BACKGROUND OF U.S. TARIFF CLASSIFICATION OF FISH NETS AND NETTING

The domestic fish net manufacturers have had the benefit of a comparatively high tariff rate since the enactment of the Smoot-Hawley Tariff in 1930. Therefore, they have had fifty-two years of the protection of a high tariff on foreign products, yet still have claimed the need for time to "adjust." (Miscellaneous Tariff and Trade Bills: Hearings Before the Subcommittee On Trade of The House Committee On Ways and Means, 97th Cong., 2d Sess. 154 (1982) Statement of Joseph R. Amore.)

As early as 1921, American manufacturers of gill netting asserted that "recent quotations by foreign manufacturers both on the Continent and in Japan have convinced us that the ad valorem duty of 10% recommended by the Ways and Means Committee must be increased to at least 40% if this class of netting is to continue as a manufactured article in this country." (Senate Hearings on H.R. 2667, Tariff Act of 1929, p. 3461, Vol. IX).

Prior to the 1960's, there was no significant foreign or domestic manufacturing of manmade fiber fish netting. Fish netting was usually made of flax, hemp, ramie, cotton, or linen. The tariff rate prior to the adoption of the Tariff Schedules of the United States, under paragraph 1006 for gill nettings and other nets for fishing, wholly or in chief value of flax, hemp, ramie, and n.s.p.f., was 45% in 1930 and gradually reduced to 22.5% ad valorem at the time of enactment of the TSUS. (Source: United States Tariff Commission, Summaries of Tariff Information, Vol. X. Flax, Hemp, Jute, and Manufactures, Washington, 1948.)

Note that the above analysis relates to fish netting of vegetable fibers rather than manmade fibers. Therefore, there was a reduction to 22.5% in the duty rate on fish netting from 1930 to 1960 for the most common type of fish netting produced at that time (natural fibers). Since the provisions at that time did not provide for nylon fish netting, this fish netting was dutied under a general paragraph providing for nylon products. The high tariff was not the result of the items' status as fish netting, but a result of their status as products of nylon. As a consequence, upon the enactment of the TSUS, nylon fish netting maintained a high rate of tariff while fish netting generally was reduced to well below the 22.5% level.

In fact, one case even held that nylon netting should not be charged duty under the then paragraph for nylon products under paragraph 1312 but should, on the basis of the Customs doctrine of similitude, be dutied under provisions for fish netting of natural fibers. (Robert E. Landweer & Co. and Seattle Marine Co. et al v. United States, 44 Cust. Ct. 384 (1960).)

Thus, we submit that the present high duty rates were not provided to protect the fish netting manufacturers as presently claimed by that industry, but were enacted as an attempt to protect the nylon industry. Therefore, the arguments by the industry that they have specifically been granted tariff protection are unfounded. We have heard no opposition from the nylon industry to reduced tariffs on fish netting of manmade fibers.

In conclusion, the domestic industry has been protected by an artifically high rate of duty for the last fifty years, particularly with respect to netting of manmade fibers, and from the early 1960's through the present has been protected by the equivalent of an average tariff rate of 42.5%. The domestic industry has therefore had adequate opportunity to gain a strong foothold in the United States market. Furthermore, the reductions which would be implemented by S. 759 would still leave the United States industry in a more favorable position than either Canada (which is duty-free) or the European community.

III. THE UNITED STATES FISHING INDUSTRY SHOULD BE ENCOURAGED RATHER THAN HINDERED BY THE TARIFF LAWS OF THE UNITED STATES

Recent information indicates that in 1981 there were approximately 193,000 fishermen in the United States as well as several hundred thousand people employed in the processing sector of the U.S. fishing industry. This contrasts with the one thousand (1,000) to fifteen hundred (1,500) people who are employed in the domestic fish netting industry.

As Representative Studds pointed out in May 1982, fishermen, "farmers of the sea," have not been treated as favorably as land based farmers. (Miscellaneous Tariff and Trade Bills: Hearings Before the Subcommittee On Trade of The Committee On Ways and Means, 97th Cong., 2d Sess. 145 (1982).) With respect to land based farming, Congress has seen fit to include agricultural implements in the list of duty-free items. Thus, the tools used by farmers are freely imported.

Neither is the fishing industry protected from fluctuations in the quantity of supply from year to year or the industry's unparalleled rise in costs. In the past decade, boat prices increased by 400%, fuel costs by 500%, and netting costs have tripled for a typical Pacific Northwest salmon gill net fisherman. Of course, the price of fish has not followed this dramatic increase. While the domestic fishermen must struggle with the high cost of quality supplies, unpredictable seasonable fish supplies and fluctuating climatic conditions, as well as the competition against imports receiving either preferential GSP treatment or, often, duty-free treatment, there is the ever-present burden of excessive duties simply because they choose to work efficiently and effectively under already very difficult conditions.

IV. CLAIMS MADE BY THE DOMESTIC INDUSTRY AT THE HEARING BEFORE THE HOUSE WAYS AND MEANS COMMITTEE SUBCOMMITTEE ON TRADE ARE UNFOUNDED

On May 10, 1983, a hearing was held before the House Ways and Means Subcommittee on Trade on an identical bill to S. 759, H. 2042, a House bill. (Certain Tariff and Trade Bills: Hearings Before the Subcommittee On Trade of the Committee On Ways and Means, May 10, 1983). Many of the claims advanced by the American Netting Manufacturers' Organization (ANMO) at that hearing are completely and totally unfounded. Further, the comments of the Honorable Harold Ford at that hearing need clarification.

In the testimony of Reginald N. Steele on behalf of the American Netting Manufacturers' Organization (ANMO) in opposition to H.R. 2042, he states that the American fish netting manufacturers have been particularly hard hit by import competition and therefore need a duty rate of almost twice what the negotiated rate will be once the reductions are effected. However, Mr. Steele fails to note that the import competition over the last ten years has fluctuated based upon various factors not relating to tariff rate. In fact, American fishermen have typically purchased all the netting which could be manufactured by the United States industry and then gone to imports to assure a complete inventory for the fishing season.

In one case, the American industry has never produced the type or quality of nets necessary to catch salmon on a commercial basis, and therefore, the fishermen have purchased imported nets. This has been well-documented in the recent antidumping hearings at which most of the parties in opposition to H.R. 2042 testified. The reality is that further protectionism in the form of unfair trade barriers will simply cause the presently healthy American netting manufacturers to atrophy and eventually render themselves useless as producers of purchasable commercial fish netting.

Mr. Steele further indicates that the import penetration has created problems for the domestic manufacturing industry. However, he fails to indicate that import penetration is typically a result of the failure of the domestic industry to provide the netting in terms of quality and amount needed by American fishermen. Prices are typically much higher, particularly when the duty is added (and this would be true even at 17%), for netting from foreign countries. We submit that import penetration will not be changed as a result of any duty reduction and this has been implicitly recognized in the negotiated duty rate of 17% which will take effect.

A further complaint of Mr. Steele on behalf of ANMO is that the Japanese have been dumping based upon the 1972 dumping order against fish netting from Japan. He stated that the large majority of this type of netting is called salmon gill. However, it has been well-documented that salmon gill netting was not included within the products which were found to be sold at less than fair value in 1972. There is doubt that there will be dumping determined on sales of salmon gill netting at any time once the correct information has been evaluated. In fact, in 1982, the dumping order as it related to salmon gill netting, was held to be needed only due to the possible retardation of the establishment of an industry. Present competition was not at issue. In fact, that netting has not been produced by the companies in issue even with the enforcement of the dumping order.

In a second hearing to revoke the order in 1983, it was held that an American company owned in partnership with the Japanese might be harmed by revocation. The nets of this company are produced with Japanese technology. Therefore, it was not a matter of import penetration which caused the lack of production of salmon gill netting in the U.S. but the need for the state-of-the-art technology. Therefore, the tariff rate is not at issue and can be presently reduced without harmful effect.

In the written summary of the testimony of Mr. Steele it is stated:

> This legislation [H.R. 2042] is inconsistent with United States trade policy of negotiated reductions as on a quid pro quo basis; no unilateral reductions which force domestic industries whose production is vital to national security out of business.

We fail to see the relevance of national security as it relates to the fish net manufacturing industry and feel that this is another attempt by ANMO to fan the fires of prejudice to the detriment of foreign manufacturers whose production is vital to U.S. fishermen.

The representative for ANMO, Mr. Steele, continues to state that the domestic industry is trying to meet increasing imports within the framework of the staged reductions. He fails to note that all through the 1970's, with the high tariff rate in effect, the domestic industry failed to undertake significant steps toward markets in which they did not produce netting. For them to now claim that they must have the high duty rate in order to move into new markets is a smokescreen designed for the continued barrier to foreign producers who supply necessary netting. The high tariff is quite simply a free ride for a complacent domestic industry. The 17% duty in and of itself is a protective tariff which should allow domestic firms to obtain any necessary capital for any and all improvements they honestly wish to undertake.

Further, Mr. Whitlow, another ANMO representative, confirms that American fishermen have problems, but feels that his industry may be sacrificed to help them. He fails to note, however, that the margin of profit for a fisherman is often very small, and the price of netting is therefore very critical for the fishermen. Net price is often a matter of the survival of the business of a particular fisherman.

The Honorable Harold Ford testified in opposition to H.R. 2042 by stating that U.S. firms are having a difficult time gaining access to Japanese markets. However, the production of U.S. netting has not been designed for export and there has been no attempt to penetrate the Japanese market. Exports constitute a very small percentage of American production for all countries, not just Japan, even for countries without tariff barriers.

Further, Congressman Ford stated that the Nylon Net Company has been experiencing a reduced demand for fish netting products. One might look to the nature of the company and the quality of their netting since this reduced demand took place simultaneously with a period of excessive duty rates.

Also, the precarious financial position of the United States manufacturers of fish netting is greatly exaggerated by the opposition. The investigation in Salmon Gill Netting of Manmade Fibers from Japan (1982) (Inv. No. 751-TA-5, USITC Pub. No. 1234) disclosed that the majority of the manufacturers of fish netting questioned by the Commission had been profitable in 1978, 1979, and 1980. (Salmon Gill Fish Netting of Manmade Fibers from Japan (supra, at p. A-17).) The ITC report also indicates that approximately one half of the domestic shipments made by U.S. producers consists of seine netting. (Salmon Gill Fish Netting of Manmade Fibers from Japan, supra, at p. A-18). The report notes that:

> Seine netting can be produced in large volume from fibers and yarn that are readily available in the United States. The market for seine netting is currently dominated by the domestic producers.

(Salmon Gill Fish Netting from Manmade Fibers from Japan, supra, at p. A-13 emphasis added.)

Also, during the recent (May 10, 1983) hearing concerning H.R. 2042, James D. Williams, Esquire, counsel for the ANMO asserted that one of the reasons for the present difficulties of the domestic netting manufacturers is that the antidumping order on fish netting had not been adequately enforced. He also stated that since the closing of the Firestone plant which manufactured the nylon yarn for Nylon Net Company, a new source of yarn had been obtained from a manufacturer located in Virginia.

While Mr. Williams' statements may be true regarding the source of the domestic supply of the yarn, they do not depict the problem to its full extent. Domestic net manufacturers have been reluctant to expend the money and the effort necessary to obtain the machinery and supplies needed to produce the high quality and performance product needed by very specialized sectors of the fishing industry. For example, salmon gill net fishermen require nets whose filament size, knotting, tensile strength, color and verismal clarity must be manufactured to the highest degree of specificity possible. Since the salmon fishing season is extremely short, a few short weeks at best, these fishermen face considerable risks in the hopes of having a plentiful seasonal catch. Without such an exacting product, these fishermen would lose a considerable portion of their potential income. It would be grossly unfair to demand that these fishermen use an inferior, unsatisfactory product from one source when a highly reliable and effective product is available from another. Despite repeated requests and specifications being submitted to the domestic net manufacturers, the salmon gill fishermen have never received a satisfactory product.

In response to Mr. Williams' assertion that a reliable source of domestic nylon yarn is available from a manufacturer in Virginia, it is submitted that this is not sufficient proof that the resulting product will perform reliably and effectively under highly exacting conditions. It has been repeatedly testified by the fish netting suppliers and importers (ITC Investigations Nos. 751-TA-5 and 751-TA-7) that having a domestic source of yarn is only the beginning of a multifaceted, highly complicated process. The twisting, knotting, dyeing and stretching of the nets are only some of the numerous, slow, tedious and time-consuming processes which must each be repeatedly tested to ascertain whether they will hold up in the prescribed, rigorous conditions. It would be unfair to demand that the salmon fishermen, who already have so much to risk, accept an unsure, dubiously dependable product when a reliable product is available. The imposition of unreasonably high rates of duty severely punish the salmon fisherman.

The domestic fish netting industry is not in the precarious position which it claims. On the other hand, the domestic fishing industry is in a state of turmoil and is richly deserving of the Government's support and encouragement. ANMO should not be allowed to "cry wolf" and further forestall the effort to restore the United States fishing industry to a state of health.

V. NATIONAL PROBLEMS PRESENTED BY THE PLIGHT OF OUR FISHING INDUSTRY

The fishing industry is vital to our national economy and it should be treated as such. Trade statistics indicate that there has been a persistent trade deficit in fish and fish products. For the year 1981, the trade deficit increased approximately three hundred million dollars to three billion dollars. This trend continues. Thus, to support the United States fish net manufacturers at the expense of the entire fishing industry would unduly encourage and prolong our nation's dependence upon foreign supplies of a commodity which is still a rich natural resource.

VI. CONCLUSION

A reduction to 17% is not a drastic remedy in light of the fact that the domestic fish net manufacturers have benefitted for decades from an exceedingly high tariff. There are very few industries in the United States which presently benefit from even a 17% tariff.

In contrast to land based farmers, fishermen do not receive any subsidization, price supports, or preferential treatment, nor do they ask for such. On the contrary, they ask merely that Congress enable them to purchase the tools of their trade at a price which is not artificially high.

All that is being asked with this bill is that the importers and fishermen be allowed to pay duties which have been reasonably assessed. In time, when the domestic net manufacturers have produced a satisfactory, fully tested product which is comparable to the imported product now being used, the fish netting suppliers, importers and fishermen will consider buying them. But, until such a product is available, it is unconscionable to ask that so many bear such a high burden for so little justification. Surely, when all the equities have been balanced, the scales will clearly weigh in favor of the suppliers, importers and fishermen and in favor of S. 759.

This tariff rate should alleviate any fears of a sudden surge of imports, however unfounded those fears might be. An intelligent solution to pressing problems such as double-digit unemployment and a continuing balance of trade deficit must rest upon Congress's day-to-day actions on bills such as this. As far as the United States fishing industry is concerned, this small cost-savings, which would be gradually implemented, is desperately needed.

It is respectfully requested that the Subcommittee on International Trade of the Committee on Finance look favorably upon S. 759. Not only would it alleviate the excessive burdens which must be borne by net suppliers, importers, and fishermen, but it would also act as a catalyst to stimulate an oppressed fishing industry to develop and to grow, thereby allowing the duty monies to be applied to the development and strengthening of an overburdened fishing industry with far-reaching favorable effects. This bill would protect not only the domestic fish netting manufacturers but also the fish net suppliers, importers and users. The former would still have the protection of more than adequate import duties and the latter would not be so severely burdened by unreasonably high tariff rates. Again, for the aforementioned reasons, it is respectfully requested that S. 759 be given your fullest support.

We would be pleased to provide any additional information which might facilitate enactment of this legislation and we thank the Committee for this opportunity to express our views.

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STATEMENT OF CHARLES H. FRITTS, ARLINGTON, VA., ON BEHALF OF THE NEW BEDFORD SEAFOOD COUNCIL

Senator DANFORTH. Mr. Fritts.

Mr. FRITTS. Thank you, Mr. Chairman.

My name is Charles Fritts. I represent the New Bedford Seafood Council. These are the vessel owners and crewmen who fish out of the port of New Bedford, Mass. We appear today in support of S. 759, to reduce the tariff on imported fish nets.

Mr. Chairman, the issue comes down to this: The tariff in 1983 ranged between 34 and 36 percent, the effective rate. This is unjustifiably high. Prior to 1982 that tariff ranged between 44 and 46 percent, and that condition existed for at least 20 years prior. It provides too much tariff protection to the net manufacturers from the foreign competition, while it unnecessarily raises the cost to the domestic fishermen.

We have found that some imported nets are generally of higher quality. We have also, in certain cases, been unable to obtain certain types of nets from domestic manufacturers.

I would also like to point out the inconsistency in the American trade policy toward domestic fishermen. While we have to compete with subsidized foreign fish products coming into this country, and the intent of the Magnuson Fisheries Conservation Act is to promote the U.S. fishing industry, we have to pay very high tariffs on the products we need to catch that fish. The imported products we compete against bear virtually no import duties.

There are approximately 200,000 commercial fishermen in the United States. This legislation would benefit a great number of them. By reducing this high trade barrier, we would expect that the prices on fishnets would be reduced.

The members of this committee who are from coastal States are aware of the financial condition of the domestic fishing industry. This is due in large part from competition from imports.

The present duty is a very high burden. This tariff would leave the domestic manufacturers with 17 percent protection. Speaking for New Bedford Seafood Council, we would take 17 percent protection against foreign fish products in a moment.

This committee has acted favorably on this legislation in the past. It has passed the Senate, and we request that you do so again.

Thank you.

[Mr. Charles Fritts' prepared statement follows:]

SUMMARY OF TESTIMONY OF CHARLES H. FRITTS ON BEHALF OF THE NEW BEDFORD SEAFOOD COUNCIL IN SUPPORT OF S. 759 TO REDUCE THE TARIFF ON IMPORTED FISH NETS MADE OF SYNTHETIC MATERIAL

October 21, 1983

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1. The New Bedford Seafood Council strongly supports S. 759 which would immediately reduce the tariff on imported fish nets and netting made of synthetic material from the present ad valorem equivalent of 34% to 17% ad valorem.

2: Lowering the tariff would enable the American fisherman to be more competitive with the subsidized foreign fishing fleets.

3. A present import tariff of 34% is unjustifiable. The domestic net and netting industry will still be protected by a 17% tariff level which is still quite high.

4. The U. S. trade policy toward fishing is not consistent in that foreign fish products enter the United States duty-free or at very low duties whereas the equipment which U.S. fishermen need to catch fish to produce a competing product bears a very high tariff.

5. The foreign made nets are often of a higher quality than the domestic net and in many cases, several types of nets manufactured in the U.S. are not readily available.

6. The cost savings to the individual fisherman would be significant.

7. There are over 200,000 commercial fishermen in the U.S.

Mr. Chairman, my name is Charles Fritts. I appear today on behalf of the New Bedford Seafood Council.

The New Bedford Seafood Council represents over 150 vessels and 1600 crewmen who fish out of the port of New Bedford, Massachusetts. In terms of the value of landings, New Bedford is the largest commercial fishing port on the East Coast. We strongly support S. 759 to reduce the tariff on imported fish nets and netting made of synthetic material.

BACKGROUND

In 1983 the tariff on imported fish nets is eighteen cents (18¢) per pound plus 28.8% *ad valorem*. The effective rate of this compound tariff is approximately 34%. Prior to 1982, the tariff was twenty-five cents (25¢) per pound plus 32.5% *ad valorem*, an effective rate of approximately 44%.

The U.S. fishermen have suffered under this tariff structure for over twenty (20) years. Legislation to reduce this tariff has been introduced several times in the past dating back to 1970.

The tariff is scheduled to be reduced gradually to 17% *ad valorem* in 1989. S. 759 would reduce the import tariff to 17% immediately.

The reduction of the tariff would have a beneficial impact on the entire domestic fishing industry.

PROMOTE GROWTH OF U.S. FISHING INDUSTRY

The intent of the Magnuson Fisheries Conservation and Management Act and the American Fisheries Promotion Act is to promote the growth of the domestic fishing industry. S. 759 is in line with that purpose in that it will reduce some of the costs fishermen must bear.

The U.S. suffers a $3 billion trade deficit in fish products. That is, $3 billion more of fish products enter the United States than are exported out of the United States. The United States is a major consumer of seafood. Our fishermen must compete with subsidized foreign fleets that undercut our prices and retard the growth of the domestic fishing industry. This legislation would reduce one of the many competitive disadvantages the U.S. fisherman is up against. By allowing the U.S. fishermen to be more competitive, we will be able to reduce the trade deficit in fisheries products.

COST IMPACT ON U.S. FISHERMEN

A fisherman in New Bedford will employ approximately eight to twelve crewmen. Throughout the year he will spend approximately $15,000 per year on fish nets. Should he buy foreign made fish nets, approximately $5,000 of that $15,000 will be spent to pay the import tariff.

The expense for nets and netting is even greater for certain other fisheries such as the Alaska ground fishermen and the tuna purse seiners.

The fish harvesting industry consists primarily of single vessel owners. Large corporations do not own or operate fishing vessels. Therefore the savings of the reduction in net tariff will have a significant impact on the fishing industry.

CURRENT TARIFF OF 34% IS UNJUSTIFIABLE

From a public policy point of view, an import tariff of 34% is unjustifiable. It is an enormous trade barrier. It increases the cost of fish nets and netting to the U.S. fishermen. It also provides a disincentive to the domestic industry to compete with the foreign product.

Even the 17% tariff level which this legislation calls for is a significant protective barrier which few domestic industries enjoy.

U.S. TRADE POLICY TOWARD FISHING INDUSTRY IS NOT CONSISTENT

The U.S. trade policy toward the fishing industry is not consistent. On one hand fish products are imported into the United States duty free or at very low duties. These imports are the products the U.S. fishermen must compete with.

While the imports of fish products enter this country duty free, the equipment the fishermen need to catch the fish bears a very high tariff. This is a contradiction in policy.

We seek some consistency in the tariff policy of this government towards the fishing industry. We are being unfairly treated at both ends of the spectrum in that the imports we compete with have very low tariffs and the equipment we need to harvest fish have very high tariffs. S. 759 would make the current situation more equitable. It would also be consistent with the Administration's free trade policy.

QUALITY AND AVAILABILITY OF NETS

The fishing industry requires a wide variety of nets and netting. As a general rule, fishermen have found that the foreign made product is superior in quality to the domestic product. It lasts longer and maintains its quality longer. A fisherman cannot afford to use a net that allows fish to escape. There are also several types of nets that are not manufactured in the United States, or if they are manufactured in the United States they are not readily available.

In some cases we are forced to pay a tariff on nets that are not made in the United States. This is clearly not the intent of any protective tariff.

SMALL REVENUE LOSS TO U.S. TREASURY

In costing out the revenue loss of this tariff reduction, it has been determined by the International Trade Commission that the loss would only be a total of $4.3 million if this bill had taken effect in January, 1983. This is a very small amount to the U.S. Treasury, whereas to the individual fisherman this is a very large amount of money. Most fishermen are small businessmen. Their vessel is the extent of their production capabilities. A 34% tariff works a very unfair burden on the independent fisherman.

In conclusion, the enactment of S. 759 would:

1. Save fishermen thousands of dollars per year.
2. Establish a more consistent trade policy with regard to the fishing industry.
3. Reduce an unjustifiable and burdensome tariff barrier.
4. Provide tariff protection of 17% to the domestic net industry.

Legislation similar to S. 759 to reduce this tariff passed both the House and Senate during the last Congress. Due to the confusion and rush of the late session, it was struck during the Conference.

We ask the Committee to support S. 759 and to act favorably on it again this year to give the fishing industry some relief from its many burdens.

STATEMENT OF JAMES D. WILLIAMS, JR., PARTNER, WILLIAMS & INCE, WASHINGTON, D.C., REPRESENTING THE AMERICAN NETTING MANUFACTURERS ASSOCIATION

Senator DANFORTH. Mr. Williams.

Mr. WILLIAMS. Mr. Chairman, my name is James D. Williams. I have the honor of representing the American Netting Manufacturers organization.

The Chair has my statement, and I would just like to make a few remarks on the general policy involved in this thing.

It was my honor—and I have been with this problem a long while. It was my honor in 1949 through 1952 to serve as legislative counsel to the late Senator Robert A. Taft of Ohio, and at that time, as now, the Congress was working with the idea of the tremendous administrative load of trade legislation.

The record shows that over those years from 1949 until now the delegation has been worked out to delegate the increase of tariff as well as the decrease of tariff downtown, and that the only time the Congress will get into the act again—for example, it's delegated with regard to escape clause to the ITC, delegated with regard to lowering the tariffs to the special trade representative, and so forth. This particular tariff was lowered under the ground rules enacted by this Congress in the Trade Act of 1974, and the only exception that I know of over the years that the Congress has willingly acceded to, to get away and get back to the old pork barrel days is when it is completely noncontroversial—the proposal is noncontroversial.

I would assure the chairman and the Senator from Maine that this is extremely controversial legislation. It is highly controversial. The guidelines set up in the Trade Act of 1974 have been met; the MTN in Geneva, the negotiation, occurred; the staging requirements in order to allow American industry to adjust to this were set forth in a multilateral negotiation with a quid pro quo that was provided for under the act.

So it should not be disturbed. It should not be disturbed.

The fishermen have a problem; yes. So do we. We don't think that this impacts on the fishermen nearly as much as passage of this legislation would impact on the textile industry. This is the whole thing.

The fishermen talk about the fact that they are going to save a lot of money from this. Actually, when you figure it out, it will make the difference in purchashing a net, inasmuch as this tariff is placed upon the f.o.b. value, as this committee knows, of about 7 percent. They would pick up—on a $15,000 net, they might save $500, and if it's passed along to them. Maybe it will, and maybe it won't; there is no guarantee of that. The importer is the one who is going to decide that, and maybe he will decide to keep the price where it is one place and run a certain fish netting manufacturer with a certain kind of net out of business with the saving that he'd make. So you don't know. It's highly controversial.

They talk about subsidized imports of fish. I have told them personally I empathize and sympathize with that. If they can prove subsidized imports of fish, why don't they get a countervailing duty petition and file it against the foreign suppliers?

I am sorry, Mr. Chairman, I don't understand. I don't understand, nor does the textile industry understand, the reason why the tradition of delegation and the legal requirements of the Trade Act of 1974 suddenly are tossed out the window.

Now, as far as products are concerned, we have written the New Bedford fishermen and we have talked with them. We have urged them. We have told them that we would work with them to develop products. When we have worked with fishermen to develop products, the domestic cost of these products to these fishermen was decreased, in polyethylene trawl netting, by 20 percent once we worked with them.

So we are on the record for working with them. We have an exhibit now at Fish Expo that starts in a few days out in Seattle, Wash., where we are helping to work with them to solve their problems. We don't think that this bill is the answer.

Thank you, Mr. Chairman.

Senator Danforth. Thank you.

[The prepared statement of Mr. James D. Williams, Jr., follows:]

BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL TRADE
OF THE COMMITTEE ON FINANCE
UNITED STATES SENATE

STATEMENT
ON BEHALF OF
THE AMERICAN NETTING MANUFACTURERS ORGANIZATION
IN OPPOSITION TO S. 759

October 21, 1983

Williams & Ince
1620 Eye Street, NW
Washington, D.C. 20006

James D. Williams, Jr.

Of Counsel

SUMMARY OF

STATEMENT IN OPPOSITION OF

S. 759

1. S. 759 would *immediately* slash the tariff on man-made fiber fishing nets and fish netting from the present ad valorem equivalent of 33.4% to 17% *ad valorem*. This cut would compress the staged reductions, negotiated in the 1979 Tokyo Round (MTN), which will reach 17% *ad valorem* in 1989.

2. The U.S. fish netting industry is in precarious economic condition: imports have taken over 1/3 of the U.S. market; sales and profits have declined from 1981 to 1982; and, the tariff rates are decreasing yearly. To chop the duty in half in one fell swoop would be economically disasterous!

3. This legislation is *highly* *controversial* because the bill would gratuitously eliminate the negotiated agreement, arrived at on an international *quid* *pro* *quo* basis by-passing key provisions of the MTN thereby going counter to established U.S. trade policy.

4. Passage of S. 759 would create an inappropriate and extremely dangerous precedent. The U.S. tariff policy will no longer have a certainty to it; industry by industry foreign sources will move through importers to have tariffs reduced by Congress, and the entire textile industry will have to wonder which of its segments is next.

The American Netting Manufacturers Organization, ANMO, is composed of eight member companies which produce approximately 70 percent of all fish netting manufactured in the United States. ANMO members are located throughout the United States (See Appendix 1).

S. 759 would immediately cut the tariff on man-made fiber fishing nets and fish netting (virtually the only type of commercial fish netting used today) from the present ad valorem equivalent of 33.4% to 17% ad valorem. This would be an immediate 49% reduction. A 55% reduction in the tariff was negotiated in the 1979 "Tokyo Round" of Multilateral Trade Negotiations (MTN). This reduction, like virtually all negotiated tariff reductions, is staged over eight years; for fishing nets and fish netting the staging started on January 1, 1982, and the final reduction to 17% ad valorem is scheduled to go into effect on January 1, 1989 (See Appendix 2). Two of the staged reductions have already occured.

Tariff reductions, negotiated on a quid pro quo basis, are staged over a number of years to allow United States industries affected by the loss of tariff protection an opportunity to adjust gradually to the increase in foreign competition. The United States fish netting industry has been particularly hard hit by import competition (See Appendix 3) and thus strongly opposes the early and immediate reduction called for in S. 759.

Import Penetration

The domestic industry picture is bleak. Appendix 3 compares imports with domestic production and consumption. Appendix 4 shows imports by source for the past six years. For 1982 (the latest year for which figures are available) import penetration reached 33 1/3%--in only the first year of the staged reduction.

Japan, South Korea and China (Taiwan), three Far East countries, have consistently accounted for more than three-quarters of the imports in the years 1977 - 1982.

Efforts to Compete With Imports

Like many other manufacturers, the fish netting industry has been fighting a battle for survival--first against Japanese imports and then against imports from Korea and Taiwan. We obtained an antidumping order in 1972 which was laxly enforced until Congress tightened up the law. The feeling now is that the industry has a chance of survival, but will not survive if S. 759 is enacted.

The United States fish netting industry has made and is making strenuous efforts to meet increasing imports within the framework of the staged tariff reductions. Two examples are: 1) Polyethylene trawl netting and 2) Monofilament netting.

Approximately five years ago the market started experimenting with polyethylene trawl netting. Initially, all of this netting was imported. Then several domestic companies began to import the twine to make the netting. These companies found they could not import the yarn or twine at a price which would make their netting competitive, yet they were not in a position to make the twine without large capital expenditures. Domestic firms had to invest in extrusion equipment to extrude the yarn, braiders to braid the yarn into twine, and heat setter depth stretchers to process the netting after it came off the machines to make quality nets. Some domestic firms made these capital investments and began production. Consequently, the price of polyethylene trawl netting dropped sharply. Domestic competition for the imported netting dropped the market price 20%!

Another area domestic manufacturers are pursuing is the production of highly efficient monofilament netting for the lower Mississippi fisheries. This will also require substantial capital investment. The result of an instant tariff cut would be the drying up of capital funds needed for product development. Domestic firms would not be able to complete development projects like monofilament netting.

Dangerous Precedent

The United States MTN negotiators in Geneva were advised by Industry Sector Advisory Committees (ISAC) with regard to the domestic industry situation. One task of these Committees was to provide counsel to the negotiators so they could ensure that no negotiated concession destroyed a U.S. industry. The concession on fish netting was negotiated under these conditions. The domestic industry has reluctantly accepted the concessions in good faith. To reduce immediately the rate to 17% ad valorem would set an inappropriate and extremely dangerous precedent by ignoring negotiated concessions and industry advice sought during the negotiations.

This proposed unilateral elimination of staging requirements would mean that Congress is giving away, gratuitously, a trade concession without requiring a reciprocal quid pro quo. Such an act in itself creates a dangerous precedent in a national foreign trade policy based on reciprocity since the days of Cordell Hull.

Should this drastic step be taken, the entire U.S. textile industry will be put on notice; each segment will wonder if it is next on the hit list. Implementation of the first stage of the textile tariff concessions negotiated in Geneva was delayed for two years because of the sensitivity of the textile industry. Fish netting is a significant sector of the textile industry. The rest of the industry can but wonder if the fish netting sector will be the first concession and all the other sectors will be similarly hit--like a chain of dominoes.

We understand the American fishermen have problems, but we are not the cause. We do not believe our industry should be sacrificed merely to permit some potential for short term gain for U.S. fishermen when actually their problems are much deeper and broader than this narrow area. Further there is no assurance that a tariff saving would be passed along to them by importers or distributors. This area, minor for them, is critical for us--the survival of our industry.

Unilateral reduction of import tariffs--particularly on textile goods--is contrary to U.S. trade policy, which is to provide tariff reductions through international negotiation and not to make them on a unilateral, non-negotiated basis. S. 759 contemplates a gift to Japanese and other foreign manufacturers without any compensation that would provide similar increased access to foreign markets for U.S. goods.

AMERICAN NETTING MANUFACTURERS ORGANIZATION

MEMBERS

BAYSIDE NET & TWINE CO., INC.
Brownsville, TX 78520

BLUE MOUNTAIN INDUSTRIES
Blue Mountain, AL 36201

CARRON NET COMPANY, INC.
Two Rivers, WI 54241

MID LAKES MANUFACTURING CO.
Knoxville, TN 37918

NYLON NET COMPANY
Memphis, TN 38101

HAGIN FRITH & SONS CO.
Willow Grove, PA 19090

NORTHWEST NET & TWINES, INC.
Everson, WA 98247

HARBOR NET & TWINE CO., INC.
Hoquiam, WA 98550

Appendix 2

Staged Reductions on Fish Netting and Fishing Nets of Manmade Fiber Negotiated in the MTN.

Effective Date	Rate	Average Ad valorem Equivalent 1/
Pre-Concession date	25¢ / lb. + 32.5%	39.1%
January 1, 1982	21¢ / lb. + 30.6%	36.2%
January 1, 1983	18¢ / lb. + 28.6%	33.3%
January 1, 1984	15¢ / lb. + 26.7%	30.7%
January 1, 1985	12¢ / lb. + 24.8%	28.0%
January 1, 1986	9¢ / lb. + 22.9%	25.3%
January 1, 1987	6¢ / lb. + 20.9%	22.5%
January 1, 1988	3¢ / lb. + 18.9%	19.7%
January 1, 1989	17%	17%

1/ Based on 1982 imports for consumption from all countries.

Williams & Ince
October 1983

Fish Netting and Fish Nets of Man-made Fiber: U.S. Shipments, Imports for Consumption, Total U.S. Exports, Apparent Consumption, and Ratio of Imports to Apparent Consumption, 1977-1982.

Year	U.S. Shipments	Imports for Consumption	U.S. 1/ Exports	Apparent Consumption	Ratio Imports to Apparent Consumption
			Quantity (1,000 lbs.)		(Percent)
1977	4,393	1,453	2/	5,846	24.9
1978	4,950	1,822	227	6,545	27.8
1979	5,567	2,315	199	7,683	30.1
1980	4,419	2,047	271	6,195	33.0
1981	4,365	1,501	359	5,507	27.3
1982	4,258	1,935	403	5,790	33.3
			Value ($1,000)		
1977	11,598	4,483	2/	16,081	27.9
1978	13,582	6,302	405	19,479	32.4
1979	16,690	9,225	476	25,439	36.3
1980	14,301	7,237	774	20,764	34.9
1981	14,541	5,771	843	19,469	29.6
1982	13,380	7,283	1,806	18,857	38.6

1/ Export Classification includes fish netting and fish nets of textile materials.

2/ Not separately reported.

Source: U.S. shipments are estimated total shipments based on compiled data furnished by ANMO members, imports and exports compiled from official statistics of U.S. Department of Commerce.

Williams & Ince
1620 Eye Street, N.W.
Washington, D.C.

October 1983

Appendix 4

U.S. IMPORTS FOR CONSUMPTION OF FISH NETTING OF MANMADE FIBER, BY COUNTRY

1977 - 1982

(Quantity in Pounds)

Country	1977	1978	1979	1980	1981	1982
Australia	0	0	0	0	0	0
Belgium	375	2,107	2,392	10,055	7,705	17,501
Canada	45,065	92,733	129,712	126,547	140,424	203,759
China (M)	0	0	0	0	13,673	3,203
China (T)	115,079	130,914	79,566	122,401	276,644	520,959
Denmark	7,896	20,709	21,857	28,749	23,821	28,166
Finland	0	0	22	381	0	0
Germany	0	0	2,740	13,040	0	0
Hong Kong	0	1,479	1,132	1,168	265	0
Iceland	0	772	2,776	752	824	18,107
Ireland	0	0	0	2,128	0	0
Italy	0	0	176	4	0	595
Japan	955,061	1,198,004	1,611,403	1,127,353	813,097	766,028
Korean Rep.	235,431	202,627	179,127	297,842	98,458	257,478
Mexico	28,003	44,552	37,530	16,396	0	0
Netherlands	894	1,360	430	6,953	1,411	691
Norway	2,000	175	440	18,182	529	1,100
Panama	26,356	14,517	0	800	5,546	40,000
Peru	0	0	36,290	0	582	0
Philippine Rep.	0	8,000	26,283	9,750	18,733	15,228
Portugal	20,524	52,801	96,976	99,885	27,067	32,177
Romania	0	0	0	0	0	0
Spain	0	0	7,330	36,009	30,260	3,434
Sri Lanka	1,119	0	0	0	0	0
Sweden	0	882	40	0	669	0
Thailand	1,857	12,283	25,684	22,232	1,461	1,638
Trinidad	0	0	0	0	0	0
United Kingdom	13,526	37,989	48,179	106,104	39,135	25,112
Total	1,453,186	1,821,984	2,315,127 1/	2,046,737	1,501,104	1,935,386 2/

1/ Includes 4,452 pounds imported from France and 590 pounds imported from Indonesia.

2/ Includes 210 pounds imported from France.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Williams & Ince
October 1983

Senator DANFORTH. Senator Mitchell.

Senator MITCHELL. Thank you.

Mr. Williams, I notice from your statement you are associated with Mr. Ince. Is he a partner of yours?

Mr. WILLIAMS. He is a partner of mine, sir.

Senator MITCHELL. And did he participate last year in the deliberations concerning this bill?

Mr. WILLIAMS. My understanding is that he did, sir.

Senator MITCHELL. Right.

Are you familiar with those deliberations at all?

Mr. WILLIAMS. No; I am not, sir.

Senator MITCHELL. Well, what happened, Mr. Williams, was that this committee approved the legislation in its original form.

Subsequently a question arose, because one of the members was not present at the time. And at his suggestion, we negotiated a compromise, in which I understand Mr. Ince was involved. And even though the committee had approved it unanimously, still there was a negotiated compromise, and it was then passed by the Senate in the compromised version.

When it got to conference, my understanding is that Mr. Ince advised the House Members that he no longer supported the compromise. And as a result, the matter was not included in the conference report.

Now, I would like to have you, if you were not personally involved, talk to Mr. Ince and write a letter to me either confirming what happened—and if it did happen, I would like an explanation as to why someone would negotiate a compromise at this level; then, having gotten that much, when it got to conference say, "Well, we no longer agree with the compromise." And if that's not accurate, I would like an accurate statement as to what occurred.

Mr. WILLIAMS. Could I respond—to the extent that I may—at this moment?

Senator MITCHELL. Sure.

Mr. WILLIAMS. It is my understanding, sir, that everything you say is correct; except there was a meeting last October of the American Netting Manufacturers Organization—as I recall it was on the 14th or 15th of October about a year ago—in my offices, at which time this compromise came up that had been discussed, as you very well say.

Senator MITCHELL. Had been "agreed to," not had been "discussed."

Mr. WILLIAMS. Whatever. As I say, I was not part of it. I will accept your word.

The point was that the membership had not agreed to it, and the membership found out about it at that point and repudiated it. Now, that's the fact. I can tell you that much, because I was there. That's the only part of it that I was in on.

Senator MITCHELL. Well, let me assure you that having gotten the bill passed by the committee, I would never have agreed to a compromise had I known that the party on the other side was not agreeing to the compromise. What conceivable benefit would there be for someone who is a proponent of the legislation that has already been approved by the committee, then agreed to a lesser version under the circumstances which you have described?

Mr. **Williams**. I understand the Senator's embarrassment, and I personally, for whatever good it is, apologize for the situation—which I had nothing to do with. But I can understand the situation.

Senator **Mitchell**. I would like a letter indicating or explaining what the position is.

Mr. **William**. I would be glad to.

Senator **Mitchell**. Well, I know we have a lot of people waiting and a lot of legislation. I would just say, Mr. Williams, that the testimony last year was very compelling that, first, many of the products involved are not produced by domestic manufacturers. And with the 17-percent tariff to be reached in any event in a few years, there is no prospect of their commencing production of these products at any time between now and then, and that therefore the only effect is not to protect anybody—because I am as much concerned about American jobs as anyone else—but to increase the price to the domestic fisherman.

And, as both Mr. Fritts and Mr. Hoffman have suggested, notwithstanding this truly enormous error which does not exist in most other areas, these imports have increased because of the quality, the unavailability domestically of some, and it just seems that there is no real basis for the position which you set forth.

Mr. **Williams**. Senator, may I respond?

Senator **Mitchell**. Yes.

Mr. **Williams**. Let me just say one quick thing, if I can do it. I have talked with the New Bedford people—Mr. Fritts—and I have discussed it. I have expressed to him the keen desire at all times of the domestic manufacturers to work with the fishermen to make whatever it is—whatever it is that will help them. We have concern for them; they are fellow Americans.

Pursuant to a luncheon conversation I had with Mr. Fritts, one of our members, Blue Mountain Industries in Blue Mountain, Ala., wrote to Jim Kostakis of New Bedford, and he says:

> Please be assured that the U.S. netting manufacturers are eager to work with you and your fishermen.

This is dated June 10, 1983.

> We will do everything possible to provide the products and service you desire. During our conversation, you stated that the fishermen in your area are interested in additional domestic sources of the polypropylene webbing they are currently using. You agreed to send me samples of the particular netting along with specifications. Once I have received this netting I will pass it on. . . .

We haven't received the samples on the netting yet.

Mr. **Fritts**. May I respond, Senator?

Senator **Mitchell**. Mr. Fritts, yes. Go ahead.

Mr. **Fritts**. Mr. Kostakis—there was communication between the two. The net manufacturer who is the person who makes the nets requested the user of the net to send to the manufacturer samples. I think we have the cart before the horse. They are the salesmen, the manufacturer. We did not promise to send samples; we said, "Send us samples; we will tell you what we need," or "we will consider the products you have."

That was the last of the communication. There was no follow up, no salesman approached the potential purchasers in this matter.

Senator **Mitchell**. I must say, Mr. Williams, it doesn't sound like very aggressive interest in the market when the manufacturer calls the customer and says, "Well, if you will send me a sample, maybe I'll think about making it and selling it to you." Most people who are really interested in producing and selling things produce them and go sell them.

Well, I don't want to take any more time, because I know we have other legislation. Thank you, Mr. Williams. And thank you both, Mr. Fritts and Mr. Hoffman.

Senator **Danforth**. Senator Matsunaga.

Senator **Matsunaga**. No questions, Mr. Chairman.

Senator **Danforth**. All right.

Thank you very much, gentlemen.

Mr. Alterman and Mr. Nehmer, on S. 1184.

STATEMENT OF STEPHEN A. ALTERMAN, EXECUTIVE VICE PRESIDENT AND GENERAL COUNSEL, AIR FREIGHT ASSOCIATION, WASHINGTON, D.C.

Mr. **Alterman**. Thank you, Mr. Chairman, members of the committee.

My name is Steve Alterman, and I am executive vice president and counsel for the Air Freight Association of America.

Our association is made up of airlines, air freight forwarders, who are major importers into this country. We strongly support enactment of S. 1184, a bill to increase the informal customs entry limit from $250 to $1,000.

It should be noted that it is not a question now of whether there should be an informal entry procedure, but rather only a question of the amount of that informal entry. The current $250 limit was enacted in 1953, 30 years ago, and has not been adjusted at all to take into account the inflation of the past 30 years. The same items which would have been available for informal entry in 1953 are now excluded from informal entry due to this inflation. Therefore, it is the position of the Air Freight Association that the original intent of Congress, establishing an informal entry limit, is not being met with the current $250 limit.

This artificial limit imposes a severe hardship on small importers who are forced to endure inconvenience, delay, and expense in the customs clearing procedure for relatively inexpensive shipments.

Furthermore, the enactment of S. 1184 will relieve an unnecessary burden on the U.S. Customs Service, and we have been informed by the Customs Service that they think enough data can be compiled for monitoring purposes under an increased limit.

Finally—I will be brief—to the extent that S. 1184 is opposed by members of the textile industry, and it has been in the past, and I notice Mr. Nehmer is here today, the association is not opposed to an exemption of the proposed limit to accommodate this segment of American business. Indeed, we have been informed that Hon. Stuart McKinney, Representative from Connecticut, has or will shortly be introducing a companion bill in the House of Representatives which would also increase the limit and will specifically exempt the textile industry from the workings of that bill.

Thank you.

Senator **Danforth**. Thank you, sir.

[Mr. Stephen A. Alterman's prepared statement follows:]

BEFORE THE

UNITED STATES SENATE COMMITTEE ON FINANCE

S.1184

October 9, 1983

Comments of the Air Freight Association

Stephen A. Alterman, Executive Vice President and Counsel

Good Morning, My name is Stephen A. Alterman and I am Executive Vice President and Counsel for the Air Freight Association. The Association is a nationwide trade organization which represents a large segment of the air cargo industry. Our members include airlines, air freight forwarders, and companies which provide both services to the U.S. shipping public. A list of AFA members is attached hereto as Exhibit I.

Most of the members of the air freight industry operate internationally as well as domestically and are therefore vitally interested in any legislation designed to ease the Customs entry process. S.1184 is one such piece of legislation. At a time when budget cuts and an ever increasing number of imports threaten to swamp the U.S Customs Service with more work than it can efficiently handle, any move to simplify customs procedures must be viewed as a positive step. Such legislation now sits before this committee and should be expeditiously approved. Introduced by Senator Spark Matsunaga of Hawaii, Senate Bill S.1184 would amend the Tariff Act of 1930 to increase from $250.00 to $1,000.00 the amount allowed for informal entry of commercial goods.

Under the provisions of informal entry, the consignee is permitted to pay duties and obtain imported goods whose value does not exceed the legal limit at airport customs stations at the time of their arrival. In turn, reduced paperwork and lower brokerage fees (which can amount to as much as 50% less, if a broker is used) make informal entry a particular asset to small businesses. The inability to use this procedure on shipments with a value of over $250.00 creates an artificial, government-imposed, restriction on international trade and creates unfair and unwarranted burdens on customs personnel who are currently past the limits of their efficient capabilities.

When originally signed into law as the nation's basic customs legislation, the Tariff Act of 1930 provided for a $100.00 value limit for informal entry of commercial merchandise into the United States. This amount was increased to $250.00 in 1953 and has remained there ever since, notwithstanding the fact that significant inflation has reduced the purchasing power of the dollar to approximately one-quarter of its 1953 value. Thus, precisely the same goods which once qualified for informal entry now must be treated as a formal entry, a much more cumbersome, time-consuming and expensive process. The net result of the use of the out-dated $250.00 limit, coupled with the inflation rate since 1953, has been to violate the clear intent of the customs laws. A new, updated limit, is needed now to cure this inequitable situation.

In further support of S.1184, it should be noted that some of our major trading partners, Canada, for example, have higher informal entry limits. In addition, other individual supporters of a change in U.S. law will undoubtedly come from the growing international small package trade, as the value of most small packages falls squarely within the $250.00 to $1,000.00 range. For example, Air Express International, one of the country's major international air freight forwarders, reports that it is currently handing approximately 10,000 shipments per month from the United States under it "Interpak", or door-to-door, service, but only 500 such shipments into the United States. The major reason for this imbalance is the current $250.00 informal customs entry limt.

Finally, perhaps the most telling argument in favor of the immediate passage of S.1184 is that we understand that the U.S. Customs Service itself is in firm support of this legislation. More informal entry results in less work for the harried agency, whose workforce is barely able to keep up with its required tasks. Therefore, the passage of S.1184 will prove to be as great a boom to the Customs Service as it will be business large and small throughout the country.

Finally, in the past, opposition to legislation similar to S.1184 has come from members of the textile industry who themselves are under severe pressure from foreign importers. Recognizing this problem, the Air Freight Association would not object to exempting the textile industry from the increased informal customs entry provisions.

In summary, because the intent of S.1184 is the facilitation of international trade and the improved efficiency of the U.S. Customs Service, the Air Freight Association strongly supports its passage as quickly as possible.

Thank you very much.

AFA MEMBERSHIP LIST

AIR EXPRESS INTERNATIONAL

AIRBORNE FREIGHT CORPORATION

AIRSPEED, INC.

AMERFORD INTERNATIONAL CORPORATION

ASSOCIATED AIR FREIGHT

BURLINGTON NORTHERN AIR FREIGHT, INC.

CAM AIR INTERNATIONAL (formerly
Fleming International Airlines)

COMBS AIRWAYS, INC.

EMERY AIR FREIGHT

EVERGREEN INTERNATIONAL AIRLINES

FLYING TIGER LINE

GENERAL AVIATION, INC.

IMPERIAL AIR FREIGHT

NORTH AMERICAN VAN LINES

PILOT AIR FREIGHT

PROFIT FREIGHT SYSTEM

SMB STAGE LINE, INC.

SOUTHERN AIR TRANSPORT

SUMMIT AIRLINES, INC.

SURFAIR

TRANSAMERICA AIRLINES

WTC AIR FREIGHT

STATEMENT OF STANLEY NEHMER, PRESIDENT, ECONOMIC CONSULTING SERVICES, WASHINGTON, D.C., ON BEHALF OF THE LEATHER PRODUCTS COALITION AND THE AMERICAN FIBER, TEXTILE, APPAREL COALITION

Senator DANFORTH. Mr. Nehmer.

Mr. NEHMER. Mr. Chairman, my name is Stanley Nehmer. I am here on behalf of two separate coalitions—the Leather Products Coalition, consisting of 6 organizations employing 250,000 people in this country, including the footwear, luggage, handbag, leather-wearing apparel, personal leather goods, and work gloves; and the American Fiber, Textile, Apparel Coalition, consisting of 21 organizations employing 2 million workers located in every one of the 50 States.

In response to the request for written statements on S. 1184, I have counted at least nine separate statements which have been submitted to the committee. And I do ask that that plus the two statements which we have submitted be included in the record.

Mr. Chairman, members of the committee, this is not innocuous technical legislation; this is highly controversial legislation with significant substantive impact on the industries on whose behalf I am here today. All of their products are in schedules 3 and 7 of the Tariff Schedules of the United States.

First, with regard to the Leather Products Coalition and their concerns.

I think it ought to be noted that goods which are entered under the informal entry system go unrecorded in the official Tariff Schedules by commodity and by country. And these statistics are absolutely vital to any industry that is concerned about imports and the impact of imports on their industry and on their market.

I would like to attach to the testimony of the Leather Products Coalition one page from the Foreign Trade Statistics of the United States, which shows how the Census Bureau records informal entries. They are estimates; there is no breakdown with regard to the items which are imported.

In 1982 almost 14 percent of all of the leather product entries into the United States were valued between $251 and $1,000. And this included 27 percent of the entries of flat goods or personal leather goods, over 25 percent of the entries of leather apparel, 22 percent of the entries of handbags.

If the informal entry system had raised the level to $1,000, I can assure the members of this committee that the number of such entries would have been even greater.

I have to say something which may sound very, very harsh; but increasing the informal entry level to $1,000 would be a license to cheat, because of the possibility of deliberate undervaluation in order to come in under the informal entry level.

With regard to the fiber, textile, and apparel aspects of the problem, within the time that I have available, I am sure the members of the committee are aware of the existence of the multifiber arrangement, which requires a sophisticated monitoring system by which textile and apparel imports are charged against maximum allowable levels.

There already is on record a very serious violation of that with regard to Hong Kong, and that is reported in my testimony with an article from a Hong Kong publication, showing the abuse that occurred and the action taken by U.S. Customs in actual undervaluation of imports from Hong Kong.

Imports of cotton shirts from the Peoples' Republic of China are valued at less than $1 per shirt. It doesn't take much to imagine the number of shirts that can be imported under the informal entry system and not be recorded in the official import statistics of the United States.

It is necessary for import-sensitive industries such as textiles, apparel, the leather products industries, to be able to know what the trade data are so that action can be taken to prevent those imports from further injuring the domestic market, the domestic industry, and the workers who work in the footwear industry, in the textile industry, in the apparel industry, and in the other leather products industries.

Thank you, Mr. Chairman and members of the committee.

Senator DANFORTH. Thank you, sir.

[Mr. Stanley Nehmer's prepared statements follow:]

TESTIMONY OF
LEATHER PRODUCTS COALITION

Amalgamated Clothing and Textile Workers Union, AFL-CIO
Footwear Industries of America, Inc.
International Leather Goods, Plastics and Novelty Workers' Union, AFL-CIO
Luggage and Leather Goods Manufacturers of America, Inc.
United Food and Commercial Workers Union, AFL-CIO
Work Glove Manufacturers Association

Presented By

Stanley Nehmer
President
Economic Consulting Services Inc.
1320 Nineteenth Street, N.W., Suite 600
Washington, D.C. 20036

To The

Subcommittee on International Trade
Senate Finance Committee

In Opposition To
S. 1184, A Bill To Increase The
Informal Entry Ceiling

October 21, 1983

SUMMARY

The Leather Products Coalition opposes S. 1184, a bill to increase the ceiling on informal entries from $250 to $1,000 because such an increase would result in statistical discrepancies with respect to import data, and thus make import monitoring more difficult.

Because of the way Census records statistics for informal entry purposes, a shipment of an industry's products, for example several varieties of footwear, could be well in excess of the informal entry ceiling but still be processed as a informal entry (for recording purposes) so long as each specific footwear category in the shipments was under the informal entry ceiling. Obviously, as the ceiling is increased so are the number of commodity statistics that go unrecorded.

The leather products industries are susceptible to large volumes of low-valued imports. Indeed, in 1982, 13.7 percent of all leather-related product entries were valued between $251 and $1,000. Census has estimated that increasing the informal entry ceiling to $1,000 would result in a 22 percent reduction in the number of import records processed.

Increasing the informal entry ceiling to $1,000 will also exacerbate the already rampant practice of undervaluation of shipments and misclassification of articles in order to escape payment of proper duty rates.

It is precisely because these industries -- luggage and flat goods, work gloves, handbags, footwear and leather wearing apparel -- are so import sensitive that they rely so heavily on accurate trade data. Import penetration rates for these industries range from 30 to 85 percent. Such data are vital with respect to Trade Act filings and to accurately monitor the impact of trade flows on the domestic market.

We ask the Subcommittee not to favorably report S. 1184.

My name is Stanley Nehmer. I am President of Economic Consulting Services Inc. I am here today in my capacity as consultant to the leather products industries and as a representative of the Leather Products Coalition whose membership consists of the following organizations:

Amalgamated Clothing and Textile Workers Union, AFL-CIO
Footwear Industries of America, Inc.
International Leather Goods, Plastics and Novelty Workers' Union, AFL-CIO
Luggage and Leather Goods Manufacturers of America, Inc.
United Food and Commercial Workers Union, AFL-CIO
Work Glove Manufacturers Association

The leather products sector includes such products as work gloves; nonrubber footwear; luggage; personal leather goods; handbags; and leather wearing apparel.

The Leather Products Coalition is strongly opposed to S. 1184, a bill which would increase the ceiling on informal entries from $250 to $1,000. Raising the ceiling on informal entries would result in statistical discrepancies with respect to import data, and thus make monitoring of imports more difficult.

I think it would be useful to examine briefly how informal entry procedures affect the Government's counting of imports. Goods which are imported under informal entries go unrecorded in the official TSUSA commodity by country statistics maintained by the U.S. Bureau of the Census. These statistics are vital to any industry concerned about imports and the impact of imports on their industry and market. Even under the present ceiling of $250, imports entering under informal entry procedures are not counted in the relevant trade statistics by commodity. Census merely estimates the approximate value of total import shipments valued at $250 or less for inclusion in a single, basket commodity classification by country of origin. This basket category is TSUSA 999.9500 ("under 251 formal and informal entries estimated"); in 1982 the value of U.S. imports in TSUSA 999.9500 was $395.5 million, and the total number of informal entries was 27,112. Any shipments of imported goods valued at under $250, such as, for example, shoes, do not get included in the import statistics on shoes but would merely be counted in TSUSA 999.9500. The first attachment to my testimony contains a page from the Bureau of the Census Publication FT 246 which illustrates this point. These data are absolutely useless in determining the articles, their value, or their quantity contained therein.

In 1982, 13.7 percent of all leather-related product entries were valued between $251 and $1,000. This includes almost 27 percent of the entries of flat goods, over 25 percent of the entries of leather apparel, 22 percent of the entries of handbags, and 18 percent of the entries of luggage, over 9 percent of the entries of nonrubber footwear, and over 5 percent of the entries of work gloves. In all, some 38,000 entries of these products in 1982 were valued between $251 and $1,000. See Tables 1 and 2 attached to my testimony.

Census has estimated that increasing the informal entry ceiling to $1,000 would result in a 22 percent reduction in the number of import records processed for total imports. Such a substantial reduction is likely to have significant ramifications in statistical reporting in certain commodities, particularly low-unit value items such as textiles and apparel, and leather-related products. Certainly, for these leather-related products, there would be a substantial loss in import records processed.

I think Subcommittee members would be most interested to learn, as I was, that the U.S. Customs Service and the Census Bureau have different criteria for considering a shipment to be an informal entry. Census' definition is the one which ultimately affects whether or not an entry gets counted with the relevant commodity statistics or in the basket category for informal entries. Census' view of informal entries presents a major problem insofar as these industries are concerned. The following example is illustrative:

1. Assume that the ceiling for informal entries is $1,000. A shipment of shoes arrives in the United States with a total value of $2,300. This shipment, however, is composed of three different types of shoes falling into three different TSUSA items. One of the TSUSA items (for example, men's leather athletic shoes, TSUSA 700.3515) is valued at $900; one (for example, men's leather work shoes, TSUSA 700.3527) is valued at $700; and one (for example, women's leather athletic shoes, TSUSA 700.4506) is valued at $700.

2. Customs would process this shipment as a formal entry because the total value of the shipment at $2,300 is in excess of $1,000.

3. Census, on the other hand, would consider each of the three items as informal entries because the value of the different TSUSA items is $1,000 or less. Census would not report statistics on each of the entries in the relevant import statistics on shoes. Thus, overall statistics on shoe imports would not contain this $2,300 shipment.

The industries in the leather products sector rely heavily on accurate trade statistics to monitor market conditions relating to imports and import penetration because these industries are all highly import-sensitive.

The unemployment rate in the leather products sector rose from 13.1 percent to 17.4 percent between 1981 and 1982 alone. And import penetration for the entire leather products sector is at extraordinarily high levels: The latest available data show import penetration for nonrubber footwear at 64 percent, luggage at 40 percent, personal leather goods at 30 percent, handbags at almost 85 percent, leather work gloves at 57 percent, and leather wearing apparel at 56 percent. As a result, imports need to be monitored closely and only the most precise and timely statistics can be relied upon to keep an accurate watch on import levels. With large numbers of low unit value items constantly being imported into the United States, an increase in the dollar amount of merchandise eligible for informal entry could undermine the efforts of government and industry to monitor accurately what is coming in and where it is coming from.

For example, the personal leather goods industry has been carefully monitoring imports of nylon flat goods (TSUSA

706.3900). In 1982, the average unit value of U.S. imports of nylon flat goods was 76¢. At the current informal entry ceiling of $250, a shipment of about 330 of these items could go unrecorded in import statistics. Raise the level to $1,000 and some 1,316 number of these flat goods could go uncounted! Shipments of high-volume, low-unit value items could combine to cause substantial undercounting in Census data.

Perhaps most disturbing is the potential of deliberate under-valuation of items in order to qualify for informal entry and/or misclassification of items in order to evade duty payments. This is clearly not in the public interest. And these problems will be exacerbated if the value of shipments eligible for informal entry procedures is allowed to increase. Not only will under-valuation in general be a problem, but the problem of deliberate misclassification of certain products in order to evade payment of proper duty rates on these items will likely increase. For example, duties on nonrubber footwear vary from 0 to 20 percent and, on luggage, from 6.5 percent to 20 percent. It will be easy for importers to claim the lower duty rates, particularly since informal entry shipments are not subject to a Customs specialist's scrutiny. One can only speculate on how much revenue will be lost to the Federal Treasury if the ceiling on informal entries is increased four-fold as proposed in S. 1184.

There are other problems as well. It is not inconceivable that one or more of the leather-related products could be the subject of import relief at some time in the future, and such import relief might involve the imposition of temporary import restraints. If the informal entry ceiling is allowed to increase, how would the U.S. Government be able to effectively monitor imports, and thus the restraint arrangements?

Finally, we think that the proposal is poorly timed because it comes at a point when imports are flooding the U.S. market in record numbers -- causing a record trade deficit which is expected to top $70 billion this year and $100 billion next year -- and trade tensions, both internationally and domestically, are high. Additionally, the bill fails to recognize that it is precisely because these industries are so import sensitive that they require the most accurate data available on imports. Such data are utilized by firms and workers in a number of ways, but most often to portray import penetration levels accurately in any trade action or complaint filed by a U.S. industry, ranging from GSP matters to Section 201 or 301 filings under the Trade Act. Such statistics also play a part in establishing eligibility for industry-wide adjustment programs administered and funded by the Department of Commerce. Such statistics are equally important to the Executive Branch. To quote from a June 15, 1980 letter from the General

Counsel of the Department of Commerce to the Chairman of the House Ways and Means Committee stating the Department's reasons for opposing an increase in the informal entry ceiling:

> The Department believes that enactment of the bill also could adversely affect the development of import data essential to our trade negotiations where comparisons are made between U.S. import statistics and other countries' export statistics. It could also seriously affect the collecting of data necessary to assess the effects of imports on domestic industry (import impact data).

We strongly oppose an increase in the informal entry ceiling for the aforementioned reasons. These industries and their workers are suffering enormously at the hands of imports. To disrupt and camouflage the data on which these industries so heavily rely would be to add an additional burden which simply cannot be justified at this time.

We urge the Subcommittee and the full Committee not to report S. 1184 favorably.

Table 1. TSUSA Commodity by Country of Origin

(See Explanation of Statistics for information on coverage, sampling procedures, sources of [illegible] CTY, UNIDENT [illegible] of Customs, f.a.s., and c.i.f. values and import charges. Numeric codes preceding country designations represent the following: 1—country of shipment, country of origin [illegible] 2—[illegible] Tariff Provision 807 [illegible]—items imported under Tariff Provision 806.30; and 4—items imported under the Generalized System of Preference Provisions of the Trade Act of 1974. 5—[illegible]-Licensed [illegible]—Foreign Trade Zone [illegible] status, and [illegible]—Foreign Trade Zone Non-Privileged status).

TSUSA commodity number, description, and unit of quantity

[illegible] TO THE TARIFF SCHEDULES

Country of origin	Net quantity	Value (1,000 dollars) Customs	F.a.s.	C.i.f.	Charges
SCHEDULE 9 TOTAL		362 974	363 116	364 700	2 254
9111100 COPPER ARTICLES FOR REMANUFACTURE					LB
CANADA	165 022	108	108	108	-
PANAMA	108 995	75	75	82	7
OTH CTY	23 574	16	16	18	2
TOTAL	297 591	199	200	208	9
9111200 RELAYING OR REROLLING RAILS FOR REMANUFACTURE					LB
CANADA	35 629 560	2 265	2 404	2 404	-
TOTAL	35 629 560	2 265	2 404	2 404	-
9111300 METAL ARTICLES, NSPF, FOR REMANUFACTURE					LB
CANADA	3 095 268	809	825	826	(Z)
BRAZIL	798	75	75	75	(Z)
URUGUAY	580	310	310	310	(Z)
ARGENT	3 409	6 403	6 403	6 415	12
U KING	56 162	107	107	116	9
BELGIUM	6 636	172	172	175	2
FRANCE	117 999	76	76	82	6
SWITZLD	1 550	113	113	114	
JAPAN	19 515	76	76	78	-
OTH CTY	13 523	113	113	124	11
TOTAL	3 315 440	8 254	8 280	8 334	45
9231800 FERROCHROME, OVER 3% CARBON, VALUED UNDER 38 CENTS PER LB					CLB
RHODESA	7 568 575	580	580	724	133
TOTAL	7 568 575	580	580	724	133
9231000 FERROCHROME, OVER 3% CARBON, VALUED UNDER 38 CENTS PER LB					GLB
RHODESA	11 049 014	-	-	-	-
TOTAL	11 049 014	-	-	-	-
[illegible] EQUIPMENT AND REPAIRS OF VESSELS					-
CANADA	-	2 313	2 313	2 313	-
PANAMA	-	68	68	68	(Z)
VENEZ	-	83	83	83	(Z)
BRAZIL	-	94	94	94	(Z)
ARGENT	-	65	65	66	(Z)
SWEDEN	-	90	90	90	-
U KING	-	368	368	368	(Z)
NETHLDS	-	310	309	310	1
FR GERM	-	198	198	199	1
SPAIN	-	89	89	89	-
PORTUGL	-	85	85	85	-
S ARAB	-	99	99	99	-
SINGAPR	-	1 248	1 248	1 248	(Z)
INDNSIA	-	813	813	813	(Z)
PHIL R	-	160	160	160	(Z)
KOR REP	-	246	246	248	1
HG KONG	-	143	143	143	(Z)
CHINA T	-	299	299	299	(Z)
JAPAN	-	3 988	3 988	3 988	1
[illegible]P S AF	-	94	94	94	(Z)
[illegible] CTY	-	317	317	318	(Z)
[illegible]TAL	-	11 171	11 170	11 176	6
9997000 [illegible]					-
[illegible]	-	6	6	6	-
[illegible]	-	6	6	6	-
9999500 UNDER 251 FORMAL AND INFORMAL ENTRIES ESTIMATED					-
CANADA	5 558	53 368	53 368	53 688	320
MEXICO	8 573	107 984	107 984	108 632	648
GUATMAL	55	563	563	566	3
SALVADR	15	161	161	162	1
HONDURA	6	99	99	100	1
C RICA	18	65	65	66	(Z)
PANAMA	19	173	173	174	1
BERMUDA	20	194	194	195	1
BAHAMAS	17	196	196	197	1
JAMAICA	16	103	103	104	1
HAITI	94	619	619	623	4
DOM REP	75	710	710	714	4
LW LW I	11	74	74	75	(Z)
BARBADO	6	81	81	81	(Z)
TRINID	7	65	65	65	(Z)
N ANTIL	6	113	113	113	1
F W IND	6	62	62	63	(Z)
COLOMB	53	566	566	570	3
VENEZ	55	330	330	332	2
ECUADOR	23	185	185	186	1
PERU	40	234	234	235	1
CHILE	22	225	225	226	1
BRAZIL	146	1 124	1 124	1 130	7
URUGUAY	12	118	118	118	1
ARGENT	49	465	465	467	3
ICELAND	27	361	361	363	2
SWEDEN	304	2 917	2 917	2 934	17
NORWAY	95	936	936	941	6
FINLAND	54	688	688	702	4
DENMARK	289	3 245	3 245	3 264	19
U KING	2 150	23 046	23 046	23 184	138
IRELAND	568	7 057	7 057	7 100	42
NETHLDS	265	2 318	2 318	2 332	14
BELGIUM	174	1 571	1 571	1 580	9
FRANCE	788	7 825	7 825	7 871	47
FR GERM	2 281	25 660	25 660	25 814	154
GERM DR	8	87	87	87	1
AUSTRIA	189	1 882	1 882	1 903	11
CZECHO	12	135	135	136	1
HUNGARY	9	95	[illegible]	95	1
SWITZLD	547	6 176	[illegible]	6 163	37
POLAND	23	[illegible]	[illegible]	209	1
SPAIN	161	1 437	[illegible]	1 448	9
PORTUGL	40	380	380	382	2
ITALY	661	6 308	6 308	6 346	38
YUGOSLV	23	205	205	207	1
GREECE	46	525	525	529	3
ROMANIA	18	134	134	135	1
TURKEY	10	95	95	96	1
ISRAEL	56	561	561	564	3
KUWAIT	5	61	61	61	(Z)
S ARAB	82	526	526	529	3
ARAB EM	21	169	168	170	1
AFGHAN	10	103	103	104	1
INDIA	214	1 944	1 944	1 956	12
PAKISTN	45	291	291	293	2
NEPAL	5	62	62	63	(Z)
SRI LKA	13	84	84	85	1
THAILND	191	1 655	1 655	1 665	10
MALAYSA	40	337	337	339	2
SINGAPR	149	1 020	1 020	1 026	6
INDNSIA	46	378	378	380	2
PHIL R	252	1 779	1 779	1 790	11
CHINA M	117	1 112	1 112	1 119	7
KOR REP	609	4 047	4 047	4 072	24
HG KONG	2 767	22 963	22 963	23 101	138
CHINA T	1 225	9 395	9 395	9 451	56
JAPAN	3 086	24 735	24 735	24 884	148
AUSTRAL	216	1 899	1 899	1 910	11
N ZEAL	73	782	782	786	5
T PAC I	6	63	63	63	(Z)
EGYPT	13	187	187	188	1
KENYA	8	87	87	87	1
RP S AF	64	464	464	467	3
UNIDCTY	289	3 620	3 606	3 638	40
OTH CTY	127	1 029	1 029	1 035	6
TOTAL	33 383	340 480	340 476	341 928	2 061

Source: U.S. Imports For Consumption And General Imports, TSUSA Commodity by Country of Origin, U.S. Department of Commerce, Bureau of the Census, FT246/Annual 1981.

Table 1

INFORMAL ENTRIES OF LEATHER-RELATED PRODUCTS VALUED BETWEEN $251-$1,000

	Total Number of Entries	Percent of Entries Valued $251-$1,000
Nonrubber Footwear	177,753	9.2
Handbags	37,183	22.0
Luggage	26,526	18.0
Flat Goods	14,849	26.8
Leather Apparel	17,994	25.4
Work Gloves	3,308	5.4
Total	277,613	13.7

Table 2

SUMMARY OF STATISTICAL INFORMATION RELATING TO INFORMAL ENTRY

	Total Imports (1982)			$251-$1,000		
	Count	Quantity (in thousands)	Value (in thousands)	Count	Quantity (in thousands)	Value (in thousands)
Nonrubber Footwear	177,753	481,063	3,087,342	16,297	1,923	9,179
Handbags	37,183	192,129	418,298	8,169	2,270	4,581
Luggage	26,526	N/A	336,136	4,765	N/A	2,639
Flat Goods	14,849	N/A	94,262	3,982	N/A	2,251
Leather Apparel	17,994	6,699	251,862	4,570	60	2,524
Work Gloves*	3,308	4,695	48,430	179	12	104
Total	277,613	N/A	4,236,330	37,962	N/A	21,278

N/A -- Not available, or not applicable.

*/ Includes leather and plastic or rubber work gloves.

Source: Prepared by Economic Consulting Services Inc. from data compiled by the U.S. Census Bureau.

AFTAC AMERICAN FIBER. TEXTILE. APPAREL COALITION

1101 CONNECTICUT AVENUE, NORTHWEST, WASHINGTON, D.C. 20036 (202) 862-0500

STATEMENT OF THE
AMERICAN FIBER, TEXTILE, APPAREL COALITION

Amalgamated Clothing & Textile Workers' Union, AFL-CIO
American Apparel Manufacturers Association
American Textile Manufacturers Institute
American Yarn Spinners Association
Carpet and Rug Institute
Clothing Manufacturers Association of U.S.A.
International Ladies' Garment Workers' Union, AFL-CIO
Knitted Textile Association
Luggage and Leather Goods Manufacturers of America
Man-Made Fiber Producers Association
National Association of Hosiery Manufacturers
National Association of Uniform Manufacturers
National Cotton Council
National Knitwear & Sportswear Association
National Knitwear Manufacturers Association
National Wool Growers Association
Neckwear Association of America
Northern Textile Association
Textile Distributors Association
Work Glove Manufacturers Association

PRESENTED TO

SUBCOMMITTEE ON INTERNATIONAL TRADE
COMMITTEE ON FINANCE
UNITED STATES SENATE
BY

STANLEY NEHMER
PRESIDENT, ECONOMIC CONSULTING SERVICES INC.

IN OPPOSITION TO
S. 1184, A BILL TO INCREASE THE
INFORMAL ENTRY CEILING

October 21, 1983

Amalgamated Clothing & Textile Workers Union
American Apparel Manufacturers Association
American Textile Manufacturers Institute
American Yarn Spinners Association
Carpet & Rug Institute
Clothing Manufacturers Association of America
International Ladies Garment Workers Union
Knitted Textile Association
Luggage & Leather Goods Manufacturers of America
Man-Made Fiber Producers Association, Inc.
National Association of Hosiery Manufacturers
National Association of Uniform Manufacturers
National Cotton Council of America
National Knitwear Manufacturers Association
National Knitwear & Sportswear Association
National Wool Growers Association
Neckwear Association of America
Northern Textile Association
Textile Distributors Association, Inc.
Work Glove Manufacturers Association

SUMMARY

AFTAC opposes S. 1184 for the following reasons:

- The MFA requires a sophisticated monitoring system by which textile and apparel imports are charged against maximum allowable levels of imports from certain countries. This requires precise customs documentation. There are already an indeterminate amount of apparel imports which do not get charged against negotiated quotas due to informal entry. An increase from $250 to $1,000 in the informal entry ceiling will result in considerably larger number of import shipments which will not be counted against negotiated MFA levels, greatly impairing the operation of the MFA.
- A major priority for the import-sensitive textile and apparel industries is accurate trade data in order to analyze the economic impact of imports on the domestic market. S. 1184 would be a detriment to the collection of accurate trade data.
- Accurate trade data are also needed to set restraint levels on textile and apparel products not currently covered by restraints under the MFA, but which are brought under control as imports increase to the point of causing disruption to the U.S. market. The new ceiling proposed under S. 1184 would pose a major problem in this regard.
- The inducement to ship in smaller lots to avoid formal U.S. Customs procedures becomes greater as the level of informal entry is expanded. Aggregate import levels could become increasingly understated if shipments under $1,000 are not included in Census data.
- Because many textile and apparel items are of low-unit value, large quantities can be shipped under a $1,000 informal entry ceiling.
- An increase in the informal entry ceiling will exacerbate the problem of under-valuation by exporters in order to avoid being subject to restraint levels.

AFTAC urges the Subcommittee to consider the ill-effects of this legislation on the operation of the MFA and on the textile and apparel industry. We urge you not to favorably report this legislation.

STATEMENT OF THE AMERICAN FIBER, TEXTILE, APPAREL COALITION

PRESENTED TO THE

SUBCOMMITTEE ON INTERNATIONAL TRADE, COMMITTEE ON FINANCE UNITED STATES SENATE

By Stanley Nehmer

WASHINGTON, D.C., OCTOBER 21, 1983

In Opposition to
S. 1184

The American Fiber, Textile, Apparel Coalition (AFTAC) is a national coalition of labor and management organizations in the textile and apparel industry in the United States. The 20 member organizations of AFTAC listed on the cover page of my testimony are located throughout the nation and produce the vast majority of textile and apparel items made in this country.

AFTAC wishes to record its strong opposition to S. 1184, a bill to increase the maximum value of import shipments eligible for informal entry from $250 to $1,000. The textile and apparel industry sector is sensitive to imports, and particularly to imports from low-wage developing countries. The industry relies upon the Multifiber Arrangement (MFA) to alleviate the import pressure on the textile and apparel industries. While the MFA may not be a wholly satisfactory mechanism for import restraint, it is, nonetheless, the only import program now in effect for this industry.

The MFA requires a sophisticated monitoring system by which textile and apparel imports are charged against maximum allowable levels of imports from certain countries. The procedure for monitoring imports requires precise customs documentation as to the kinds, quantity, and value of imported articles. Even under current statutes, however, some apparel items from some countries, despite inclusion in the MFA, can be imported into the United States under informal entry procedures if the total value of the shipment does not exceed $250. There are already an indeterminate number of apparel imports which do not get charged against negotiated quotas due to informal entry.

It is clear that an increase in the maximum informal entry level from $250 to $1,000 will result in a considerably larger number of import shipments which will not be counted against negotiated MFA levels. This will not only hinder the operation of the MFA, but will also injure the industry's ability to monitor its competitive position in the U.S. market. Accurate trade data are a major priority for all import-sensitive industries in their efforts to analyze the economic impact of imports on the domestic market. Many individual textile and apparel industry segments, especially those in which high-volume, low-unit value imports are common, would be adversely affected by an increased dollar value limit for items eligible for informal entry.

Accurate trade data are also tremendously important to set restraint levels on textile and apparel products not presently covered by restraints under the MFA but which are brought under control as imports increase to the point of causing disruption to the U.S. market. When such actions are taken, import levels are set based on imports in the first twelve of the last fourteen months. Import data must fully reflect import levels in order that restraint levels are properly set. An increase in the level of informal entry, which would result in inaccurate data collection, would make this effort difficult.

The textile and apparel industry is still the largest employer in manufacturing in the United States although employment in the textile industry is now 1,932,000 -- 200,000 below 1980 levels and 400,000 below employment in 1974. If the present import trend continues, estimates show that industry employment will decline further by 300,000 workers by 1990. Over 65 percent of the workers in the industry are women and, since many of them are secondary wage earners, many are unable to relocate. Furthermore, one-fourth of the industry's workforce is comprised of minorities and much of the apparel industry is concentrated in large U.S. cities and metropolitan areas where alternative employment opportunities are limited.

Many segments of this industrial complex, particularly in the apparel area, have been characterized by plant shutdowns, declining domestic production, and declining domestic employment, all as a result of increasing quantities of imports. The manufacture of apparel is highly labor intensive. Domestic apparel producers find it difficult to compete with foreign producers, especially those in low wage, developing countries.

The concern over the pending legislation is self-evident. A concern with regard to import levels dictates a concern with regard to accurate trade statistics. Fair and equitable administration of the MFA depends upon accurate trade data. An increase in the maximum value of merchandise eligible for informal entry will make proper and effective administration of this import program exceedingly difficult. Many imported items affecting the textile and apparel industry have relatively low average unit values. This is becoming an even greater problem today as the People's Republic of China with textile and apparel products with particularly low unit values increases its shipments to the U.S. The inducement to ship in smaller lots to avoid formal U.S. Customs procedures becomes greater as the level of informal entry is expanded. Aggregate import levels could become increasingly understated if shipments under $1,000 are not included in Census data.

Attached to our statement is an article from a Hong Kong publication which describes the action taken by the U.S.

Customs Service in Hong Kong when it determined that made-to-measure clothing shipped to the U.S. was being undervalued to avoid being subject to the restraint levels on exports from Hong Kong. The U.S. Customs Service reported that this practice had also resulted in a loss of duty revenue to the U.S. of US $300,000 to 500,000 monthly. Raise the informal entry level to $1,000 and the Hong Kong merchants will have an even greater incentive to cheat.

There are many examples of imported textile and apparel items which are of low unit value and which therefore could take advantage of informal entry procedures. For example, the average unit value of imports of men's and boys' cotton shirts from the PRC in 1982 was $22.89 per dozen, less than $1 each. Currently, 11 dozen of these shirts can enter the United States under the $250 informal entry ceiling. If the ceiling is raised to $1,000, shipments of 44 dozen shirts can pass through U.S. Customs without being logged for statistical purposes. Shipments such as these would go uncounted if S. 1184 is enacted. Unrecorded imports could increase the disruption to the U.S. market without recourse by the U.S. Government.

AFTAC urges this Subcommittee to consider carefully the negative consequences that passage of S. 1184 could have on the operation of the Multifiber Arrangement and on the viability of the domestic textile and apparel industry, and other import-sensitive sectors. We believe that the evidence justifies that this legislation not be favorably reported by the Subcommittee or the full Committee.

TEXTILE ASIA, JUNE 1982

Customs crackdown

An investigation by the US Customs, which in January-April seized some 8,000 parcels of custom-made clothing despatched from Hong Kong, has led to the imposition of stringent new conditions on such sales. A directive dated April 30 and signed by Mr Donald Mieger, senior US Customs representative in Hong Kong, specifies that:

- All future shipments must be declared at full transaction value, i.e. the price to the US customer.
- They must contain a copy of the original invoice or order form, and proof of payment.
- All books and records concerning sales to the US must be available for inspection on demand.
- All parcels must be properly declared as regards fibre content, and contain proper quota and visa documentation.

Urging tailors, shippers and mail order companies to use their "influence" to ensure the widest possible conformity with these guidelines, the directive states that firms which fail to follow them "and which continue to falsify values and provide inaccurate information regarding fabric content will have their parcels seized, and may face criminal action by US Customs. Action will also be taken against firms that refuse to pay the assessed benefits."

Mr Tom Gray, a US Customs official who has been leading the investigation in Hong Kong, says that at a conservative estimate 85% of the parcels of made-to-measure clothing shipped from Hong Kong had been undervalued, so as to save duty or evade quota requirements. Goods valued at US$250 and over are subject to quotas.

According to Mr Gray, the present widespread abuse derives from a new policy introduced in July 1980, by which goods are assessed for duty on transaction value – the price paid – as against the former assessment based on "constructed value," which covered the tailor's material costs plus wholesale profit of about 20%. But as made-to-measure goods are marked up by 60-80%, many people had continued to value under the old system.

False description might also be used in an attempt to evade duty. E.g. all-cotton shirts attract an 8-16% duty, as against 27% for shirts of cotton-synthetic blends. Articles bearing logos pay up to 40%.

The degree of abuse came to light after complaints were made against one company in America. The present loss of duty revenue was estimated at US$300,000-500,000 monthly. About 50% of the volume of the present trade was generated by mail-order firms, with the rest stemming from various retail outlets.

The directive adds that if the guidelines are "accepted and followed parcels valued at under $250 now being held by US Customs at Seattle and San Francisco, the two main points of entry, will be released immediately, with duty assessed at true value. Those valued over $250 will be assessed at a rate of eight times the potential loss of revenue, levied against each parcel individually and with the "tailor and consignee identified." For these however the US Commerce Department will request "blanket quota wavers."

"We do not," says the directive, "contemplate petitions or mitigations of these penalties as a general rule. Violators are expected to pay in full."

AMERICAN FIBER, TEXTILE, APPAREL COALITION

Amalgamated Clothing & Textile Workers' Union, AFL-CIO
American Apparel Manufacturers Association
American Textile Manufacturers Institute
American Yarn Spinners Association
Carpet and Rug Institute
Clothing Manufacturers Association of U.S.A.
International Ladies' Garment Workers' Union, AFL-CIO
Knitted Textile Association
Luggage and Leather Goods Manufacturers of America
Man-Made Fiber Producers Association
National Association of Hosiery Manufacturers
National Association of Uniform Manufacturers
National Cotton Council
National Knitwear & Sportswear Association
National Knitwear Manufacturers Association
National Wool Growers Association
Neckwear Association of America
Northern Textile Association
Textile Distributors Association
Work Glove Manufacturers Association

Senator DANFORTH. Senator Mitchell.

Senator MITCHELL. No questions.

Senator DANFORTH. Senator Matsunaga.

Senator MATSUNAGA. Thank you, Mr. Chairman.

Mr. Nehmer.

Mr. NEHMER. Yes, sir.

Senator MATSUNAGA. If we should exclude textiles from the increase, would you then favor the bill?

Mr. NEHMER. Well, sir, I am here on behalf of two separate groups—fiber textiles and apparel, and leather products.

Senator MATSUNAGA. If we also exclude leather products, would you then favor the bill?

Mr. NEHMER. If you exclude schedules 3 and 7 there would be no basis for our opposition to this legislation. All of these products are included in those two schedules. And I don't think in schedule 7 there is very much other than what we have been talking about.

Senator MATSUNAGA. If we reduce the maximum importable amount to $500 or $750, would you then favor the bill?

Mr. NEHMER. Sir, I would have to say, insofar as these products are concerned there would still be a problem. I think I pointed out in my testimony that the average unit price of a flat goods or personal leather goods imported last year was 75 cents or 76 cents. A lot can come in at $500 or $600 or $750 and not be recorded in the actual statistics. That's the problem.

If you were to exclude textiles, apparel, the leather products that we are talking about, there would be no basis for our even being here today, obviously.

Senator MATSUNAGA. Yes; I understand.

As you know, and as has been pointed out, the $250 limitation was set back in 1953. There has been considerable inflation since then, you must admit. In 1953 were you opposed to the raising of the amount from $100 to $250?

Mr. NEHMER. No, sir. In 1953 I was in the U.S. Government, and I was not involved in this at all.

Senator MATSUNAGA. In the Customs Service.

Mr. NEHMER. No, sir. I was in the State Department, actually, in 1953.

I should point out, Senator, that in 1953 the import impact on these industries was nowhere as it is today. The textile import program didn't begin until 1957, with an agreement negotiated with Japan. There was no import penetration of 65 percent of footwear in 1953. If imports had 2 percent of the U.S. market it would have been a lot in 1953.

What we are talking about is the current situation, Senator, which has deteriorated so badly—as I know you are aware of—that this particular point of $250 versus $1,000 or some intermediate figure becomes a very serious problem to these import-impacted industries.

Senator MATSUNAGA. As you probably know, the Customs Service, including the employees, have approached me to do something about this, because they are overburdened with work with the $250 limitation. They miss the larger imports because they need to pay too much attention to the smaller ones. What do you say to them?

Mr. **Nehmer**. Well, Senator, I would have to say that that's really, from their point of view, unfair to these American industries and the 2.25 million people working in these industries, directly employed, plus another 1.1 million Americans who are working in other industries supplying these industries.

If the Customs Service does not have the resources to take care of this problem, then Congress should—if I may say, with all respect—should see to it that they do have the resources.

Senator **Matsunaga**. Well, I did try to increase the number of employees last year, and failed miserably.

Mr. **Nehmer**. I am sorry that happened, but this is no solution to the problem, to take it out of the hides, if I may say, of these industries.

Senator **Matsunaga**. I see my time is up, Mr. Chairman.

Senator **Danforth**. Senator Chafee.

Senator **Chafee**. No questions.

Senator **Matsunaga**. Thank you all very much.

Mr. **Nehmer**. Thank you very much.

Senator **Danforth**. Next, S. 1420, Mr. Holbein.

STATEMENT OF BRUCE HOLBEIN, MANAGER, GOVERNMENT RELATIONS, DIGITAL EQUIPMENT CORP., ON BEHALF OF THE SEMICONDUCTOR INDUSTRY ASSOCIATION AND THE SCIENTIFIC APPARATUS MAKERS ASSOCIATION

Mr. **Holbein**. Good morning, Mr. Chairman.

I would like to summarize my testimony and ask that the full text be included in the record.

Senator **Danforth**. Right. You don't even have to ask.

Mr. **Holbein**. All right; thank you.

My name is Bruce Holbein. I manage government relations for the Digital Equipment Corp., and I am appearing on behalf of the Semiconductor Industry Association and the Scientific Apparatus Makers Association. I am accompanied by SIA's counsel, Michael Gadbaw.

My purpose in testifying is to urge this committee to act favorably on S. 1420, a bill introduced by Senator Mitchell to authorize the President to suspend the duties on semiconductors and certain computer products.

Mr. Chairman, I think you will find that the basic thrust of S. 1420 is very close to the tariff negotiating provisions of S. 144, a bill which you, Senator Mitchell, and a number of other committee members have cosponsored. And as you know, the high technology trade associations have strongly supported S. 144.

The similarity between the tariff negotiation provisions of S. 144 and S. 1420 is intentional. The purpose of S. 1420 is to insure that tariff negotiating authority for high technology products includes all the items for which there is the greatest industry support. And we believe that S. 144 could be improved in two respects. This improvement would be accomplished by S. 1420.

First, the negotiating authority would be extended to all semiconductors items that should be covered in the trade agreement pertaining to semiconductors. This would include T.S.U.S. items 687.72 on diodes and rectifiers, and 687.85, parts of semiconductors.

Second, S. 144 as presently drafted does not include parts of computers—676.52. This is a priority item for inclusion in any tariff legislation affecting computers, because reduction of the U.S. tariff on computer parts holds the greatest prospects of benefits to the U.S. computer industry.

The other reason why S. 1420 was introduced was that there was a concern that there may be sensitivity to providing specific tariff negotiating authority along the lines in S. 144. By providing comparable authority in the form of a miscellaneous tariff bill, it was thought that we could avoid such sensitivities, or at the least open an additional option for achieving the same end.

The important thing to remember, considering this tariff negotiating authority, is that providing the authority to use tariffs as negotiating chips holds the potential of providing substantial benefit to U.S. semiconductor and computer industries as well as the many industries which purchase semiconductor and computer products.

U.S. semiconductor and computer companies are committed to competition in global markets. Tariffs on the products we buy and sell do not afford us protection, particularly at the levels of 4 to 5 percent. Such tariffs only add to our manufacturing costs and divert resources we critically need for investment in capital equipment and for increased investments in research and development.

We are dealing with companies which, like my own, pay little or no dividends to their shareholders, while at the same time we invest over 20 percent of our revenues in capital equipment and in research and development. At the same time, we face very intense foreign competition from companies whose governments are committed to do everything they can to provide a favorable environment for their domestic companies' growth.

S. 1420 is a very simple, straightforward way of helping to insure the international competitiveness of United States high technology companies, and we urge you to give it your favorable consideration.

Thank you.

[The prepared statement of Bruce Holbein follows:]

STATEMENT

of

BRUCE HOLBEIN
Manager of Government Relations
DIGITAL EQUIPMENT CORPORATION

on behalf of the

SEMICONDUCTOR INDUSTRY ASSOCIATION
and the
SCIENTIFIC APPARATUS MAKERS ASSOCIATION

In Support of S. 1420
A Bill to Authorize the Suspension of the Rates of Duty
on Semiconductors and Computers

Before The

SUBCOMMITTEE ON INTERNATIONAL TRADE
COMMITTEE ON FINANCE
U.S. SENATE

October 21, 1983

Mr. Chairman my name is Bruce Holbein. I am Manager of Government Relations, Digital Equipment Corporation (DEC). I am testifying today on behalf of Digital, the Semiconductor Industry Association (SIA', and the Scientific Apparatus Makers Association (SAMA). These associations represent a broad range of companies engaged in the production of semiconductors, computers and other advanced electronic products.

I would like to thank the Committee for this opportunity to present our position in support of Senator Mitchell's bill -- S. 1420 -- a bill which would give the President the authority to suspend the duty on semiconductors and certain computer products based on a finding that it is in the national economic interest.

To explain the importance we attach to this issue, I would first like to discuss the environment of global competition in which U.S. high technology companies must operate. Second, I will explain the importance to us of measures designed to reduce and eliminate barriers to international trade in the products we buy and sell.

U.S. high technology industries lead the world in their level of technology and competitiveness. All other nations -- including Japan -- measure their own degree of success in these industries against an American standard of excellence. A primary reason for our achievement in this field has been the existence of a comparatively free and open international trading system. This system has given us a worldwide market for our products, which has enabled us to maintain a consistently high level of sales volume. High volume sales enable us to reduce our costs through learning and scale economies. Because of those continuing cost reductions, we have not only been very price competitive all over the world, but profitable. Moreover, we have plowed most of our earnings back into our business to maintain the levels of efficiency, productivity and innovation needed to remain competitive on an international scale. The electronics and microelectronics industries pay little or no dividends to stockholders -- and we have a higher level of R&D and capital investment expenditure than virtually any other U.S. industry.

At present our high technology industries face a growing competitive challenge from foreign competition which benefits from extensive government programs to promote their domestic industries. However, it remains our firm belief that the way to meet the foreign challenge is by opening foreign markets, not by protecting our own. Accordingly, we oppose trade barriers of any kind, tariff and non-tariff, here and abroad, and we have consistently sought to reduce and eventually eliminate such barriers.

An excellent example of this type of initiative was the agreement concluded in 1980 which resulted in the reduction of the Japanese duty on semiconductors to 4.2% from 10%, thereby achieving parity in tariffs between the United States and Japan. This agreement was possible because the President had available to him general tariff negotiating authority which allowed him to reduce the U.S. duty by up to 20%. Although that authority has now expired, the United States and Japan are on the verge of agreeing to eliminate their duties on semiconductors. The authority provided in Senator Mitchell's bill would enable the United States to implement such an agreement and to negotiate similar agreements with other countries on computer components, systems and peripherals.

It is worth noting that any U.S.-Japan agreement on semiconductors would be negotiated together with a number of measures designed to open the Japanese market to U.S. semiconductor exports. We are hopeful that as a result of these efforts, Japan will agree to implement a series of measures to promote U.S. semiconductor imports into Japan. We hope that these measures will be augmented by the negotiated elimination of the Japanese tariff on semiconductors.

Elimination of the Japanese duty will be beneficial to U.S. electronics firms, but our industries and economy will also benefit from the elimination of the U.S. duty. The current U.S. duty on semiconductors and computer parts, which ranges from 4.2 to 5.1 percent, does not offer protection to U.S. producers. The volatility of prices in the global semiconductor market dwarfs the importance of customs tariffs. For example:

- normal supply/demand and product life cycle forces have caused the price of a semiconductor device to drop from $30 to $5 in one year.
- fluctuations in international exchange rates have caused price variances of as much as 30 percent.

On the other hand, while the duty offers our industries no protection, U.S. and foreign duties impose costs and regulatory burdens on our producers. Our computer and semiconductor industries are global in scope -- a primary factor in their competitive success. The existence of duties anywhere imposes costs on the shipment of raw materials and semifinished parts from our subsidiaries in one country to those in another. Moreover, in the U.S., our companies must devote personnel to satisfying the heavy administrative Customs requirements involved in TSUS 806 and 807 assembly operations. These personnel obviously could be more usefully employed supporting R&D or production. The fact is that for U.S. high technology industries, the U.S. duty is a hindrance rather than a help.

In order to meet the foreign competitive challenge in the next decade, U.S. computer, instrument, semiconductor and other high technology firms will engage in unprecedented levels of capital investment and research and development. U.S. companies are doing all that they can to reduce their costs and invest a high percentage of every sales dollar in capital and R & D. The suspension of the U.S. tariff on semiconductors and computer parts would make additional funds needed for investment available to U.S. semiconductor and computer producers. To illustrate this point, in 1982 the U.S. semiconductor industry paid total duties of approximately $75.5 million to the U.S. and Japanese governments. This sum represents nearly 5 percent of the total annual investment in R&D and capital by the U.S. semiconductor industry. The suspension of the duty in the United States alone would have saved U.S. semiconductor manufacturers about $60 million in 1982 duty payments on the value added in that part of semiconductor assembly and testing which, out of competitive necessity, must be conducted overseas. The elimination of these payments would be one of the single most significant cost saving measures the U.S. government could implement for the U.S. semiconductor industry. Other U.S. industries which purchase semiconductors, such as instrument manufacturers, would also save money as a result of the reduction in U.S. duty rates.

S. 1420 would also authorize the President to negotiate similar arrangements with other countries to reduce or eliminate the duties on computer components, systems and peripherals. In this respect, the legislation complements the tariff negotiating provisions in section 128 of S. 144, the International Trade and Investment Act. However, S. 1420 would extend the coverage of tariff negotiating authority to parts of computers provided for in item 676.52. This is an important addition to the President's negotiating position because reduction of tariffs on computer parts holds the greatest prospect of benefits for the U.S. computer industry and other industries that purchase U.S. computer components. This could be done by implementing the nomenclature contained in the Harmonized Commodity Code system.

Underlying our support for the worldwide elimination of tariffs on computer parts and other high technology products is the recognition that our industry competes in a global marketplace. The United States imports over $1 billion in computer parts and exports over $9 billion in computer systems. To remain competitive, we must be able to source our components wherever it is the most cost effective. Duties on semiconductors and on our components simply add to our costs, inflate prices and divert funds from essential research and development and capital investment, thereby making our products less competitive in international markets.

Because domestic semiconductor manufacturers allocate such high percentages of their net sales to R&D and investment, the experience of the industry indicates that most of the savings realized by the tariff suspension would be utilized for increased R&D and capital investment in the U.S. In 1982, R&D as a percentage of net sales reached 10.7 percent, and in 1981 investment as a percentage of net sales stood at over 20 percent. In effect, over 30 percent of all sales revenues were reinvested by the industry -- an extraordinarily high percentage for any industry, here or abroad. Furthermore, according to an SIA study, over the past five years 83 to 85 percent of these expenditures have been made here in the United States. Moreover, it is worth noting that the high technology industries, as represented by the associations here today, have among the highest effective tax rates of any U.S. industries.

In the competition between U.S. and foreign semiconductor and computer part producers, national duties play a role only as a cost to all firms, and the majority of this cost is borne by U.S. companies. Authority to reduce the duties on semiconductors and computer parts, especially when coupled with parallel action by the Japanese government, would benefit the U.S. industry more than that of any other nation. It would also be a clear signal to other nations of this country's commitment to the principle of eventual elimination of tariff and nontariff trade barriers.

We urge your committee to take positive action on S. 1420. It is a simple and effective step by which to increase the competitiveness of U.S. high technology industries at home and abroad. It is an essential step which may help to secure greater access for U.S. firms to the Japanese semiconductor market, and it would provide a vivid demonstration of the U.S. commitment to open world trade in high technology products.

cdh/4-19:66

Senator Danforth. Senator Mitchell.

Senator Mitchell. Thank you, Mr. Holbein, for your statement. Under this bill it is intended that the President use the authority to suspend duties when he has obtained assurance that some of our trading partners would do likewise.

Mr. Holbein. That is correct, Senator; this is not a unilateral suspension of duties. It is intended to provide the President with negotiating authority, to have bargaining chips, to increase the range of bargaining chips he has in trying to reach high technology agreements with our trading partners.

Senator Mitchell. With what countries do you think such arrangements are possible?

Mr. Holbein. Well, at the moment our Government is actively pursuing a trade agreement with the Japanese to suspend bilaterally, mutually, the duties on semiconductors.

Our Government presently lacks the statutory authority to put such an agreement into effect, and the authority in S. 1420 would provide that ability.

Senator Mitchell. All right.

Mr. Holbein, can you identify the associations and companies in the semiconductor and computer industries which support S. 1420?

Mr. Holbein. Yes, Senator Mitchell.

In addition to the Semiconductor Industries Association and the Scientific Apparatus Makers Association, on whose behalf I appear today, the other leading high technology trade associations support this measure, including the American Electronics Association, the Computer & Business Equipment Manufacturers Association, and the Computer & Communications Industries Association, in addition to individual companies such as Digital, Data General, GCA Corp.

This measure has achieved the unanimous support of the six major sectoral high technology trade associations.

Senator Mitchell. Thank you very much.

Senator Danforth. Senator Matsunaga.

Senator Matsunaga. No questions.

Senator Danforth. Senator Chafee.

Senator Chafee. No questions.

Senator Danforth. Thank you very much.

Mr. Holbein. Thank you.

Senator Danforth. We now have S. 1542, Mr. Stone and Mr. Miller.

Senator Scott, good to see you.

Senator Scott. Thank you, sir. It is a pleasure to be back, as always. It's even a pleasure to be on this side of the table, if I may say so.

I appreciate the opportunity to introduce the witness.

Mr. J. H. Miller is the president and the chief executive officer of Plastics Manufacturing Co. of Dallas, Tex. He has been familiar with the domestic and foregin market in melamine for over 33 years. He has 500 to 600 employees, many of whom have been with him more than 25 years. And he will testify in strong opposition to S. 1542, which would increase the duty rate on the chemical melamine from the current 4.3 percent ad valorem to 9.2, and he will point out, among other things, that the pending legislation is not a miscellaneous tariff bill.

As far as Mr. Miller is aware, and he has made considerable inquiries, this bill is opposed by all domestic users of melamine.

So it is my pleasure to have the privilege of introducing this witness, Mr. Miller, to the committee, and I thank you for hearing him.

Senator **Danforth**. Thank you.

Mr. Miller.

STATEMENT OF JAMES H. MILLER, PRESIDENT, PLASTICS MANUFACTURING CO., DALLAS, TEX.

Mr. **Miller**. Thank you very much.

Senator Mitchell, I feel that I represent the entire industry and particularly Pioneer Plastics from Maine, because I have visited with the top management of that organization, and they concur with us entirely in this matter.

Senator **Mitchell**. And they are represented here.

Mr. **Miller**. Yes; they are represented here.

Plastics Manufacturing Co. is strongly opposed to S. 1542, which would increase the duty rate on chemical melamine from 4.3 to 9.2 percent. This bill would force our company and other users to pay higher prices for melamine at a time when we have just begun to get over the recession and are having a little slight upturn. For this reason and for the others that I will mention, we urge the subcommittee to reject this bill.

S. 1542 would violate the international obligations of the United States. As part of the 1979 multilateral trade negotiations the President has implemented a staged tariff reduction on melamine from its current rate to 3.5 percent by 1987. In consideration of this action, the United States did receive reciprocal concessions, and passage of S. 1542 would abridge our obligations and commitment under the MTN.

The pending legislation is not a miscellaneous tariff bill. In 1980 Melamine Chemicals, Inc., of Louisiana, tried to eliminate foreign competition by bringing an antidumping petition against producers of melamine in the Netherlands, in Austria, and in Italy. MCI's claims were rejected by the Commerce Department and the International Trade Commission at that time.

In 1982 MCI tried again to curtail foreign competition by filing another antidumping complaint against Brazil. The International Trade Commission rejected MCI's contentions out of hand at a preliminary stage of the investigation. Instead of finding the minimal level of injury that would justify a full investigation, the Commission determined MCI's profitability, employment, and domestic market share was "positive." One Commissioner went so far as to say that: "This is not an industry in distress or even an industry suffering from a modicum of injury necessary for an affirmative finding."

Finally, just several weeks ago the U.S. Trade Representative held a hearing pursuant to another MCI petition on whether or not to remove melamine from the list of articles eligible for duty-free entry.

Mr. Chairman, there has been a very hard fought, ongoing controversy surrounding our policy with regard to the importation of melamine. And the question should not be addressed as a "miscellaneous tariff issue."

The passage of S. 1542 would result in a dramatic increase in the cost of melamine to domestic users and could prejudice the economic recovery which is taking place in the plastics industry.

I would like to very briefly describe for you the structure of the market for melamine crystals in the United States and how it affects the business of my company.

In 1973 there were at least six U.S. manufacturers of melamine. Three years later, in 1976, there were only three producers: Allied Chemical, American Cyanamid, and Melamine Chemicals, Inc. Today there are two producers: American Cyanamid and Melamine Chemicals.

American Cyanamid uses almost all of their production in-house, and it leaves really only one manufacturer to fill the needs of the open market in this country.

Plastics Manufacturing Co. and other domestic users of the chemical are in tremendous jeopardy as the result of what has happened in the industry over the last several years. Melamine is the lifeblood of our business, and just good business dictates that we have more than one supplier of our basic raw materials.

The ultimate effect of S. 1542 would be to give Melamine Chemicals, the last remaining producer of melamine, an effective monopoly and resulting windfall. S. 1542 would eliminate price competition in the U.S. market afforded by importers and would therefore be detrimental to the interests of the industrial users.

Senator DANFORTH. Thank you, sir.

[Mr. James H. Miller's prepared statement follows:]

STATEMENT OF MR. JAMES H. MILLER
PRESIDENT, PLASTICS MANUFACTURING COMPANY
BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL TRADE,
COMMITTEE OF FINANCE,
U.S. SENATE
OCTOBER 21, 1983

Senator Danforth, Senator Bentsen, Members of the Committee, my name is James H. Miller. I am the President and Chief Executive Officer of Plastics Manufacturing Company, located in Dallas, Texas. With me this morning is Mr. Marshall Matz, our counsel, with the law firm of Barnett & Alagia.

Plastics Manufacturing Company is strongly opposed to S. 1542 which would increase the duty rate on the chemical melamine from the current 4.3% ad valorem to 9.2%. The bill would force our company and other industrial users to pay higher prices for melamine at a time when we have just begun to recover from the prolonged recession. For this reason, and for the others set forth below, we urge the Subcommittee to reject this bill.

* S. 1542 would violate the international obligations of the United States. As part of the 1979 Multilateral Trade Negotiations (MTN) the President has implemented a staged tariff reduction on the chemical melamine from its current rate to 3.5% by 1987. (Presidential Proclamation 4707) In consideration of this action, the United States obtained reciprocal concessions. Passage of S. 1542 would abridge our obligations and commitment under the MTN.

* The pending legislation is not a "miscellaneous tariff bill". In 1980 Melamine Chemicals, Inc. (MCI) of Louisiana tried to eliminate foreign competition by bringing an anti-dumping petition against producers of melamine in the Netherlands, Austria and Italy. MCI's claims were rejected by the Commerce Department and the International Trade Commission.

In 1982 MCI tried to curtail foreign competition by filing another anti-dumping complaint against Brazil. The International Trade Commission rejected MCI's contentions out of hand at a preliminary stage of the investigation. Instead of finding the minimal level of injury that would justify a full investigation, the Commission determined MCI's "profitability, employment, and domestic market share" was "positive". One commissioner went so far as to say that "this is not an industry in distress or even an industry suffering the modicum of injury necessary for an affirmative finding."

Finally, just several weeks ago the United States Trade Representative held a hearing pursuant to another MCI petition on whether or not to remove melamine from the list of articles eligible for duty-free entry.

In short, Mr. Chairman, there has been a hard-fought, ongoing controversy surrounding our policy with regard to the importation of melamine, and the question should not be addressed as a miscellaneous tariff issue.

* Passage of S. 1542 would result in a dramatic increase in the cost of melamine to domestic users and could prejudice the economic recovery which is taking place in the plastics industry. Let me briefly describe for you the structure of the market for melamine crystals in the United States and how it affects the business of Plastics Manufacturing Company. In 1973 there were at least six U.S. manufacturers of melamine. By 1976 there were only three producers in the United States: Allied Chemical Corporation; American Cyanamid Company and Melamine Chemicals, Inc. Today there are only two producers, Melamine Chemicals, Inc. and American Cyanamid. In practice, however, there is only one as American Cyanamid Company uses almost all of its

production for its own business, leaving only Melamine Chemicals, Inc. to produce for the open market in the United States.

Plastics Manufacturing Company, as well as other domestic users of the chemical, are in tremendous jeopardy as a result of what has happened in the industry over the last several years. In effect we have been reduced to only one reliable U.S. source of the raw material which is the lifeblood of our business and which is required in the manufacture of almost all our products. This, then, makes it mandatory that we import materials from foreign sources. Good business practices dictate that no company rely on one supplier for its basic raw materials.

* The ultimate effect of S. 1542 would be to give Melamine Chemicals, Inc., the last remaining U.S. producer of melamine, an effective monopoly and resulting windfall. S. 1542 would eliminate price competition in the U.S. market afforded by importers and would therefore be detrimental to the interests of industrial users.

Mr. Chairman, we urge you to consider this legislation in the context of the MTN agreement, the controversy that has been raging before the International Trade Commission and the United States Trade Representative, and the need to protect the domestic users of melamine. We must rely upon a diversity of suppliers for an efficient manufacturing process. Plastics Manufacturing Company currently employs between 500 and 600 people. S. 1542 would adversely affect the economic wellbeing of our company and that of the entire industry.

Thank you very much.

STATEMENT OF JAY STONE, WASHINGTON, D.C., REPRESENTING MELAMINE CHEMICAL, INC., DONALDSONVILLE, LA.

Senator DANFORTH. Mr. Stone.

Mr. STONE. Thank you, Mr. Chairman.

My name is Jay Stone, president of Jay Stone Associates. I am here on behalf of Melamine Chemicals to testify in favor of S. 1542, as introduced by Senator J. Bennett Johnston.

Melamine Chemicals, Inc., is a joint venture of Ashland Oil Corp. and the First Mississippi Corp. and is located in Donaldsonville, La.

I am just going to summarize my statement, Mr. Chairman.

Essentially, what we are asking here is for a reciprocal duty as to what they charge in the EEC as opposed to what we charge. We want them both to be 9.2 percent.

What has happened is that over the last few years, as my partner over here has mentioned, the foreign governments have been illegally dumping melamine into the United States at less than fair value prices, which has run all the melamine producers in the country out of business, except for Melamine Chemicals, Inc., and American Cyanamid.

American Cyanamid produces only for its own use; it doesn't sell to anybody else. In fact, it buys additional melamine. So there is really only one producer.

He mentioned that the Commerce Department had found that there was no material injury; however, we filed suit. And after 3 years of litigation the CIT reversed the Commerce Department's determination on March 25 of this year.

Also I want to just give you some statistics.

The Department of Commerce, when they filed their opposition to this last year on the House bill, they said there was no serious import injury. To give you an idea of what we consider "serious import injury," our sales have gone from 53 million pounds in 1979 to 32 million pounds in 1982, a 40-percent decrease. Imported melamine rose from 13.6 million pounds in 1980 to 21.6 million pounds by the end of 1982—a 63-percent increase. Because of this disparity, just in disparity of duties—and there are some other problems also—the foreign competition has about a 2 cent per pound edge over us.

We have had to shut down our plant in Donaldsonville twice for 6 months at a time, and we are probably going to have to do it for another 6 months next year unless something changes. And that probably means in a couple of years, if things don't change, if the courts continue to allow the Netherlands, Brazil and some other countries to dump this melamine in this country at less than what they are selling it for in their own country—in the case of Brazil they are selling it for $1.50 a pound, where it is about 45 to 50 cents a pound here, and they won't let us import it into Brazil, although we would like to; but if that doesn't happen pretty fairly soon—you are not going to have any domestic melamine suppliers, you are only going to have foreign. And we have seen what happens when we are totally dependent on foreign suppliers.

Now, the domestic buyers of foreign melamine oppose this tariff increase on the raw material, because it will increase their costs. But at the same time, they enjoy substantial protective tariffs on the finished goods that contain melamine.

For example, the U.S. tariff duties on plates and dishes made from melamine are 4 cents per pound, plus 8 percent ad valorem. That equals 8 cents per pound and 16 percent on the actual melamine content—far more than the 4.8 percent that this legislation calls for. It seems to me they want their cake and eat it, too.

So, Mr. Chairman, we come to this committee asking for relief from this situation. This relief will rectify what we think is a mistake made by our negotiators back in the Kennedy round, who I'm certain had no intention of wiping out a domestic industry when they agreed to the rate schedule. But times and conditions have changed, and you have an opportunity to right the wrong that has been done.

I hope that you will see our side and help us stay in business and help our employees to keep their jobs, and restore some fair play to melamine trade.

[The prepared statement of Jay Stone follows:]

STATEMENT OF MELAMINE CHEMICALS, INC.

Donaldsonville, Louisiana

Presented by Jay Stone

Jay Stone and Associates, Inc.
412 First Street SE, Suite 50
Washington, D. C. 20003
202/863-0788

CONCERNING S. 1542

Before the

Subcommittee on International Trade

Committee on Finance

United States Senate

October 21, 1983

Mr. Chairman, my name is Jay Stone, President of Jay Stone and Associates, Inc. of McLean, Virginia. I am here today on behalf of Melamine Chemicals, Inc. to testify in favor of S. 1542 as introduced by Senator J. Bennett Johnston. Melamine Chemicals, Inc. is a joint venture of Ashland Oil, Inc. and First Mississippi Corporation and is located in Donaldsonville, Louisiana. The plant there manufactures melamine, a white crystalline substance which is made from urea, which is made from natural gas. It has a variety of uses including coatings for appliances, automobiles, building materials, and molded dinnerware. Only one other plant in the United States produces melamine and it is also located in Louisiana and is owned by American Cyanimid, which provides largely for its own use.

Domestic melamine is identical to imported melamine, being manufactured by a plant a process purchased from the major European producer, Dutch State Mines, a government owned company. Access to raw materials is virtually the same and the costs of production, as best we can determine are about the same. This being the case, there appears to be no reason why the EEC duty rate is 9.2 percent ad valorem and the U. S. duty rate is less than half that, 4.4 percent ad valorem. Even excluding other factors which worsen the case, this gives the importers about a 2 cent per pound competitive edge. As a result, despite the fact that the cost of production in the United States is at least as percent ad valorem and does not address the other issues. A hearing was held in the House on May 3, 1983, but no further action has been taken.

Mr. Chairman, as a general rule, we do not believe that American industry should hide behind a protective wall of restrictions, quotas and high tariffs. But we also believe that there are exceptions to every rule where common sense and fair play must prevail. We do not take this step lightly. We are here only as a last resort after spending countless thousands of dollars and hours trying to use the system created by Congress to seek a solution to this problem. A brief history of the administrative and legal steps we have taken prior to this point is contained in Appendix A of this testimony.

The Department of Commerce, in its report to the House last year on H. R. 6360 opposed passage for two reasons. First they said they had no evidence of "serious import injury" to this industry. I suppose MCI will have to go broke and fire its 100 workers for them to see injury. To give you an example of our injury, our sales have gone from 53 million pounds in 1979 to 32 million pounds in 1982, a 40 percent decrease. Imported melamine rose from 13.6 million pounds in 1980 to 21.6 million pounds by 1982, a 63 percent increase. We have the capacity to provide about seventy million pounds per year. We had to shut down our melamine. For example, U. S. tariff duties on plates and dishes made from melamine are 4 cents per pound plus 8 percent ad valorem. That equals 8 cents per pound and 16 percent on the actual melamine content, far more than the 4.8 percent this legislation calls for.

So, Mr. Chairman, we come to this Committee asking for relief from this situation. This relief will rectify a mistake made by our own negotiators, who, I am certain had no intention of wiping out a domestic industry when they agreed to the rate schedule. But times and conditions have changed, and you have an opportunity to right the wrong that's been done. I hope you will see our side and help us stay in business, help our employees to keep their jobs, and restore some fair play to melamine trade.

FACT SHEET

RE: S. 1542 - a bill to establish a
9.2% duty rate on imported melamine

WHAT IS MELAMINE?

Melamine is a white crystalline substance made from urea which is used in the manufacturing process of various plastics and laminates, including building materials (formica), molded dinnerware (Melmac) and some automobile parts. It is manufactured in the U. S. and other countries by an identical process at virtually the same cost.

WHAT DOES THE BILL DO?

It increases the U. S. duty on imported melamine from 4.4% to 9.2% ad valorem, exactly the rate charged by the European Economic Community, in other words, a reciprocal tariff.

WHY DOES THIS NEED TO BE DONE?

Foreign companies, subsidized by their governments, have invaded the U. S. market since the Kennedy Round of trade negotiations lowered the U. S. duty to one half of the European duty to an extent that the sole U. S. supplier of melamine has cut its production in half and is about to fold up completely. Even though it has been proved that the foreign companies are "dumping" melamine in the U. S.; i.e., selling at less than fair market value, no relief has been given by the Administrative machinery and the U. S. Trade Representative does not have the authority to negotiate a change. This duty increase would simply restore parity to tariff rates to correct the imbalance brought on by the earlier negotiations.

WILL THIS COST ANYTHING?

It will not cost the Treasury of the United States one penny. If the duty is raised, a compensation must be made on some other product. Estimates are that this will be in the amount of less than $500,000 per year, a miniscule amount that can easily be absorbed without harming U. S. interests.

APPENDIX A

The story of how actions by the U.S. and foreign governments have caused MCI to be beseiged in its own market is set out below.

1. The Kennedy Round (1968)

Prior to 1968 there was little trade in melamine. MCI was prevented by foreign government restrictions from exporting to any but a few Latin American countries, and the U.S. duty (10.5%) was high enough to prevent massive imports on a regular basis. As a result of the Kennedy Round, however, the rate was decreased in stages to 5% in 1972. The EEC duty, on the other hand, was reduced to only 9.8%.

At about this same time a number of new plants (or expansions of existing plants) were built in Japan, Europe and South America. This expansion of capacity created a serious oversupply and, as a result, foreign melamine began to flow into the U.S. at extremely low prices. Accordingly, MCI took a number of actions to defend itself as described below.

2. Attempts to Export

First, MCI looked into the possibility of exporting to other markets, including the EEC, Brazil and Japan, but foreign government restrictions made this impossible (a description of the barriers MCI encountered in Europe is described in Attachments 1 and 2).

3. The Trade Act of 1974 and GSP

Although nothing was done to provide access to foreign markets for U.S. exports of melamine, the U.S., in the Trade Act of 1974, provided for a Generalized System of

Preferences for less developed countries. Melamine was named as an eligible commodity under this program and, thus, imports of melamine from certain countries including Brazil, became eligible to enter the U.S. duty free. Imports from these countries did not begin for several years, however.

4. Dumping by Japan (1975) - The System Works

On November 14, 1975 MCI initiated an antidumping proceeding against imports from Japan which were being sold in the U.S. at prices which were 60% below the comparable price in Japan. The ITC decided in a 3 to 3 vote that the U.S. industry was being injured by reason of such less than fair value (LTFV) sales. Accordingly, a tie vote being an affirmative result in dumping cases, an antidumping order was issued, and the Japanese producer ceased selling in the U.S. market.

5. The Austria, Italy and Netherlands Dumping Cases (1979-83) - A Misinterpretation of the Law and a Three Year Delay

As soon as the Japanese producer left the U.S. market, low priced imports began to come in from the Netherlands and, to a lesser extent, from Austria and Italy. Accordingly, on March 23, 1979 MCI initiated an antidumping proceeding against imports from these three countries. The Commerce Department found that imports from all three countries were being sold at LTFV, but on May 5, 1980 (because of a mistaken interpretation of the law) Commerce withdrew the LTFV determination against the Netherlands. The ITC then found that the injury done to MCI by imports from Austria and Italy alone was not sufficient to trigger the antidumping law. Accordingly, all three cases were dismissed at the administrative level, and the foreign producers involved were permitted to continue their LTFV sales.

MCI appealed the findings in all three cases to the Court of International Trade (CIT). On March 25, 1983 the CIT, after nearly three years of litigation) reversed the Commerce Department's determination in the Netherlands case, and remanded it to Commerce for further proceedings. The appeals in the Austrian and Italian cases are still pending.

6. The Federal Maritime Commission Proceeding (1981) - Relief from Inbound Outbound Freight Rate Disparities

Information brought to light during the antidumping proceedings against the Netherlands, Austria and Italy indicated that one reason European producers were able to sell in the U.S. market at low prices was because the freight rates for transporting melamine from Europe to the United States was slightly over 2¢ per lb. while the freight rate for transporting U.S. melamine to Europe over the identical route was over 6¢ per lb. Accordingly, on June 11, 1981 MCI brought an action in the Federal Maritime Commission to correct this inbound-outbound freight rate disparity. Thereafter, favorable settlements were reached with the various carriers, and on February 3, 1982 MCI withdrew the complaint.

7. Request for Legislation (1982)

In May 1981 MCI, realizing that administrative remedies had been either too slow or too fragmented, asked that legislation be introduced to raise the U.S. duty up to the level of the EEC duty so that in future trade negotiations they could be reduced at the same rate. Congressman Henson Moore introduced the legislation in the House where it was referred to the Ways and Means Committee. However, both the Commerce Department and the USTR opposed enactment of the legislation on the ground that, if the duty were raised, the U.S. would have to give the EEC compensation on some other product. The bill will come up for hearing before the Trade Subcommittee on May 5, 1983.

8. The Brazil Dumping Case (1981) - One Way Trade At Greatly Reduced Prices

In 1981 the Brazilian producer, who is protected from competition in the Brazilian market by a prohibition on imports, developed a large inventory of melamine because of a decrease in the demand for melamine in Brazil. Accordingly, in 1981-82 large quantities of Brazilian melamine was shipped to the U.S. free of duty under the GSP program. On September 13, 1982 MCI filed a dumping petition pointing out that the Brazilian melamine was being sold in the U.S. at a little over 40¢ per lb., while the identical product was being sold in Brazil by the same producer for $1.50 per lb. Thus, there was a dumping margin in excess of 300%.

On October 28, 1982 the ITC, after a preliminary inquiry, found that there was "no reasonable indication" that the "U.S. industry" was being materially injured by the LTFV sales from Brazil. The ITC found that the "U.S. industry" is made up of the melamine producing facilities of both MCI and American Cyanamid. American Cyanamid produces for its own use, and thus does not compete with imports for the business of its major customer. Accordingly, its plant is fully occupied. MCI, on the other hand, must sell in the merchant market in competition with imports, and its plant was closed for six months in 1981-82 for lack of orders. When the captive American Cyanamid plant is lumped together with the independent MCI plant, however, there is " no reasonable indication" of material injury to the "industry." Accordingly, this proceeding was terminated.

On December 8, 1982 MCI appealed to the CIT from this ITC determination.

Conclusion

U.S. foreign trade laws are designed to insure that the most efficient producer will win in commercial competition. In general, this result appears to be achieved, but the series of events which have occurred in the case of melamine illustrate that in a few cases the opposite result is achieved. Probably this cannot be prevented. The problems are too complex, and the authority to deal with them is necessarily too dispersed among disparate government agencies to permit a coordinated approach in every case. Accordingly, Congress will probably have to continue to be satisfied if the administrative machinery which it has set up to handle foreign trade problems works reasonably well in the vast majority of cases.

Where, as in the case of melamine, the administrative system fails to achieve its purpose, however, it is necessary for Congress to act to correct the mistakes.

Senator **Danforth**. Thank you, sir.

Senator Matsunaga.

Senator **Matsunaga**. No questions.

Senator **Danforth**. Senator Chafee.

Senator **Chafee**. No questions, but it certainly is nice to see our former colleague Senator Scott here.

Senator **Scott**. Thank you. That is highly appreciated.

Senator **Matsunaga**. Mr. Chairman, I too wish to welcome our former colleague. It's nice to see you.

Are you still dealing in art?

Senator **Scott**. I do some dealing in the art field.

Senator **Matsunaga**. I had the opportunity to travel with the Senator to the Far East, and it was quite an enlightening experience. I learned more about art on that short trip than I did in the remainder of my life.

Senator **Scott**. Well, one of my colleagues used to say when I was in the Orient, "It was a Jade-Scott trip."

[Laughter.]

Senator **Matsunaga**. Thank you, Mr. Chairman.

Senator **Danforth**. Thank you.

Next, S. 1524: Mr. Steger, and Mr. Abbott.

Senator **Chafee**. All right.

Mr. Steger.

STATEMENT OF RONALD STEGER, PRODUCTION MANAGER, PAPST MECHATRONIC CORP., NEWPORT, R.I.

Mr. **Steger**. Mr. Chairman, my name is Ron Steger, and I am the production manager for Papst Mechatronic Corp. of Newport, R.I.

I would like to thank the committee for extending me the opportunity to appear here today, along with our trade attorney Mr. Brian Burke, to express Papst's strong support for Senate bill 1524, a bill which will suspend the customs duty for 2 years on certain parts of computer memory disk drive spindle motors.

Just to let you know what this particular product is, I have brought along a sample motor that we manufacture in our plant in Rhode Island. This particular motor is used in a Winchester disk drive memory, which is commonly used in personal computers. The spindle motor is the main drive component which rotates the memory disk.

Papst Mechatronic Corp. is a small but growing American high technology company which manufactures these precision electronic motors and also cooling devices at our plant in Newport, R.I. We have invested well over $5 million in our facility in Rhode Island and plan to employ over 150 people with a projected payroll in excess of $150,000 per month.

Four years ago our company's parent corporation in West Germany pioneered the development of this computer memory disk drive spindle motor.

The market for this particular type of high technology motor is expanding, and it is highly price competitive. Today that market is dominated by certain Japanese companies and Papst.

Papst is currently forced to import certain parts for these motors from its present company. Given the inverted structure of the present motor parts tariff, importing only these specially designed parts puts Papst at a significant disadvantage vis-a-vis the Japanese, who import fully manufactured motors. The duty rate for a fully manufactured motor is only one-half of the duty rate for parts of the motor. This inverted rate has the effect of penalizing Papst for its decision to manufacture these motors in the United States with American labor and American parts. S. 1524 will correct this anomaly.

We are asking for a 2-year duty suspension period during which we can develop domestic sources of supply for these parts, and become a completely independent operation in Rhode Island.

This bill will not adversely affect any other American motor manufacturers who seek to enter this market, because it will only place competing American manufacturers on an equal footing, while in some situations it may actually help other American companies.

S. 1524 will not adversely affect American parts manufacturers because it gives Papst the ability to immediately source certain parts for its motors domestically while allowing it an opportunity to secure reliable domestic parts sources for the specially designed components.

This bill will not benefit the Japanese but, rather will allow an American manufacturer to compete against them effectively. To take advantage of this bill, the Japanese will have to make similar investments in the United States and therefore actually increase U.S. jobs.

In summary, Papst is the predominate American manufacturer of this motor, and its main competition is from the Japanese. The bill puts Papst on an equal footing with the Japanese and will not harm domestic manufacturers. The failure to pass this bill will only benefit the Japanese and risk the loss of American jobs.

Thank you very much.

Senator CHAFEE. Thank you, sir.

[Mr. Ronald Steger's prepared statement follows:]

STATEMENT OF RONALD E. STEGER
ON BEHALF OF PAPST MECHATRONIC CORPORATION
IN SUPPORT OF S. 1524

Mr. Chairman, my name is Ronald Steger and I am the Production Manager for Papst Mechatronic Corporation of Newport, Rhode Island. I would like to thank the Committee for extending me an opportunity to appear today along with our Trade attorney, Mr. Brian Burke, to express Papst's support for S. 1524, a bill to suspend the Customs duty for two years on certain parts of computer memory disk drive spindle motors.

Papst Mechatronic Corporation is a small but growing American high-technology company which manufactures precision electronic motors and cooling devices at our plant in Newport. These devices are designed for use in computer equipment. By the end of this year Papst Mechatronic will be employing over 150 persons with a projected payroll in excess of $150,000 per month.

Four years ago our company's parent corporation in West Germany pioneered the development of a permanent magnet, brushless, electronically commutated, direct current, fractional horsepower motor which turns the memory disk of a Winchester type computer memory. The motor eliminates the need for external drives by incorporating the spindle by which the memory disk is driven into the motor itself. This particular type of motor is now widely used in the 5¼" disk drives commonly found in personal computers. The market for this particular type of high-technology motor is expanding and is highly price competitive. Today that market is dominated by Papst and certain Japanese companies.

In 1982, a decision was made to create Papst Mechatronic and begin manufacturing this spindle motor in Rhode Island. While it is our intention for Papst Mechatronic to be completely autonomous and purchase all of its materials in the United States, we have not yet been able to develop reliable American sources of supply for certain specially designed components for these spindle motors. Therefore, during this manufacturing start-up period, Papst Mechatronic has found it necessary to continue to import these parts from its parent company. This need, unfortunately, has created a very serious problem for Papst Mechatronic under the present United States tariff laws. The problem, which S. 1524 would solve, is that for many of the small electric motors which Papst manufactures, the duty rate on imported parts is not only high, but much higher than the duty rate on the same motors if they are imported after already having been fully manufactured. Since the Japanese do not manufacture in the United States, but only import finished motors, the present tariff structure gives the Japanese a competitive advantage in this highly price-sensitive market, while, at the same time, penalizing Papst for its decision to invest in the United States and to employ American labor. By providing a temporary duty suspension only on these specially designed parts for this particular motor, S. 1524 affords Papst the opportunity to secure domestic sources of supply for all its motor components while competing on an equal basis with the Japanese during this critical start-up period. Without this measure, Papst's efforts to create a stable, reliable American source of supply will be thwarted.

In terms of the cost of S. 1524 to the U. S. Treasury, it should be noted that during 1982 Papst paid approximately $55,000 in duties on parts for these motors, while in 1983 it is anticipated that the total duty bill will be approximately

$134,000. However, the contribution Papst is making to the American economy in terms of its $5 million investment in plant and equipment, its payroll, and its increased purchases from American electric motor parts manufacturers as Papst begins the domestic sourcing of all its supplies, will far outweigh any potential loss of Customs revenues over the next two years.

We would like to emphasize that the only parties who will benefit from S. 1524 are those who manufacture this particular type of spindle motor in the United States. The duty on motors manufactured overseas is unaffected by the legislation. Therefore, any argument that the Japanese will benefit from S. 1524 is completely spurious, since the Japanese can only benefit from this bill if during the next two years they decide, as Papst has done, to manufacture these motors in America.

Finally, S. 1524 will not adversely affect other American electric motor manufacturers. The bill only concerns certain parts of a particular type of electronic spindle motor developed by Papst. Papst is currently the only American manufacturer which is a significant factor in the market for this motor, the other significant producers all being Japanese. Any other American electric motor manufacturers who seek to enter the market for this type of motor over the next two years will also have to compete against Japanese-made motors and, to the extent any of those American producers are forced to import the same type of parts that Papst must now import, S. 1524 will benefit them as well. If, unlike Papst, other American manufacturers are not forced to import any parts, then S. 1524 would simply place competing American producers on an equal footing.

Moreover, we do not know of any other American motor manufacturer which has made a capital investment and has the capacity to manufacture this particular type of motor on a scale that even approaches Papst's Newport facilities. We believe no other American company is in a position to meet the current demand of American disk drive manufacturers for this type of motor. If Papst is not able to compete effectively in this market, that demand will not be met by another American company; it will be met by increased imports and sales of Japanese motors.

In summary, S. 1524 rectifies an anomaly in the current tariff structure which penalizes an American company for manufacturing motors in the United States, and by rectifying this anomaly S. 1524 allows American producers to meet foreign competition in an expanding, price-sensitive market. On behalf of Papst Mechatronic I wish to express our complete support for the proposed legislation and to thank this Committee for its attention.

Respectfully submitted,

Papst Mechatronic Corporation

BY: Ronald Steger
Ronald Steger

STATEMENT OF JOHN ABBOTT, PRODUCT MANAGER, AIRPAX CORP., CHESHIRE, CONN.

Senator DANFORTH. Mr. Abbott.

Mr. ABBOTT. Mr. Chairman, my name is John Abbott. I am the product manager for brushless d.c. motors, AIRPAX Corp.

I want to make three major points in expressing our opposition to the passage of S. 1524.

First of all, I have brought along some product literature which indicates that AIRPAX is a major domestic competitor in this market. We have been involved in the market for over 4 years. We have invested over $3 million in our tooling and developing of this product, and we are also at the point where we are about to undertake volume production and achieve our payback on this product.

There are also other domestic producers, one of which is present in this hearing room, Clifton Precision Industries, which I believe has invested over $1 million in the same product area.

At this time we are 100-percent domestically sourced in Connecticut and within the United States. In fact, we have even exported the same type of motor to foreign countries, thereby contributing, we feel, substantially to the U.S. economy.

Finally, I would like to bring to your attention a particular aspect of the market for this type of motor, which has also been mentioned by our competitors, the fact that it takes from 2 to 4 years, typically, for a project to go from the development stages through tooling and then to eventual production. At this point, to change the trade policy under which the initial investment decisions that caused an entry to this marketplace were made would be to change the rules of the ball game after the seventh inning. We feel that this would be unfair, and that is our principal opposition to the S. 1524.

Thank you, sir.

Senator DANFORTH. Thank you, sir.

[The prepared statement of John Abbott follows:]

AIRPAX®
CHESHIRE DIVISION
Cheshire Ind. Park, Cheshire, CT USA 06410. 203 272-0301

TESTIMONY PRESENTED TO THE SUB-COMMITTEE ON INTERNATIONAL TRADE, SENATE COMMITTEE ON FINANCE CONCERNING S1524, A BILL TO SUSPEND FOR TWO YEARS THE DUTY ON PARTS OF SPINDLE MOTORS SUITABLE FOR COMPUTER MEMORY DISK DRIVES.

WASHINGTON, D.C. - OCTOBER 21, 1983

Mr. Chairman, Honorable Members:

My name is John Abbott. I am the Brushless DC Product Manager for AIRPAX Corporation, the Cheshire Division, A North American Philips company.

I'm here to present testimony in opposition to S 1524.

AIRPAX Corporation is a major U.S. manufacturer of electric motors for the computer peripheral marketplace. The permanent magnet brushless DC spindle motor is a major and rapidly growing portion of our motor business. I have attached our product brochure which shows the breadth of our product offering in this area. The potential market for this type of motor is, we believe, well in excess of one million motors per year. We offer the brushless DC motor complete with spindle, and also as a parts kit consisting of a rotor and stator which can be combined with the customer's spindle. The product literature indicates AIRPAX total commitment to this product area.

AIRPAX-Cheshire has approximately 800 employees, with many of them employed in production of the brushless DC motor. AIRPAX has invested in excess of three million dollars in the development and tooling for this motor. All of this money has been expended in the domestic economy, providing employment among our vendor base as well as within AIRPAX. We feel that this method of obtaining material is more beneficial to the U.S. economy than the method by which our competitors could operate if S 1524 was approved.

The Brushless DC motor is a significant development in motor technology. Recent articles in the Wall Street Journal and other publications have highlighted its increased energy efficiency and other desirable performance characteristics.

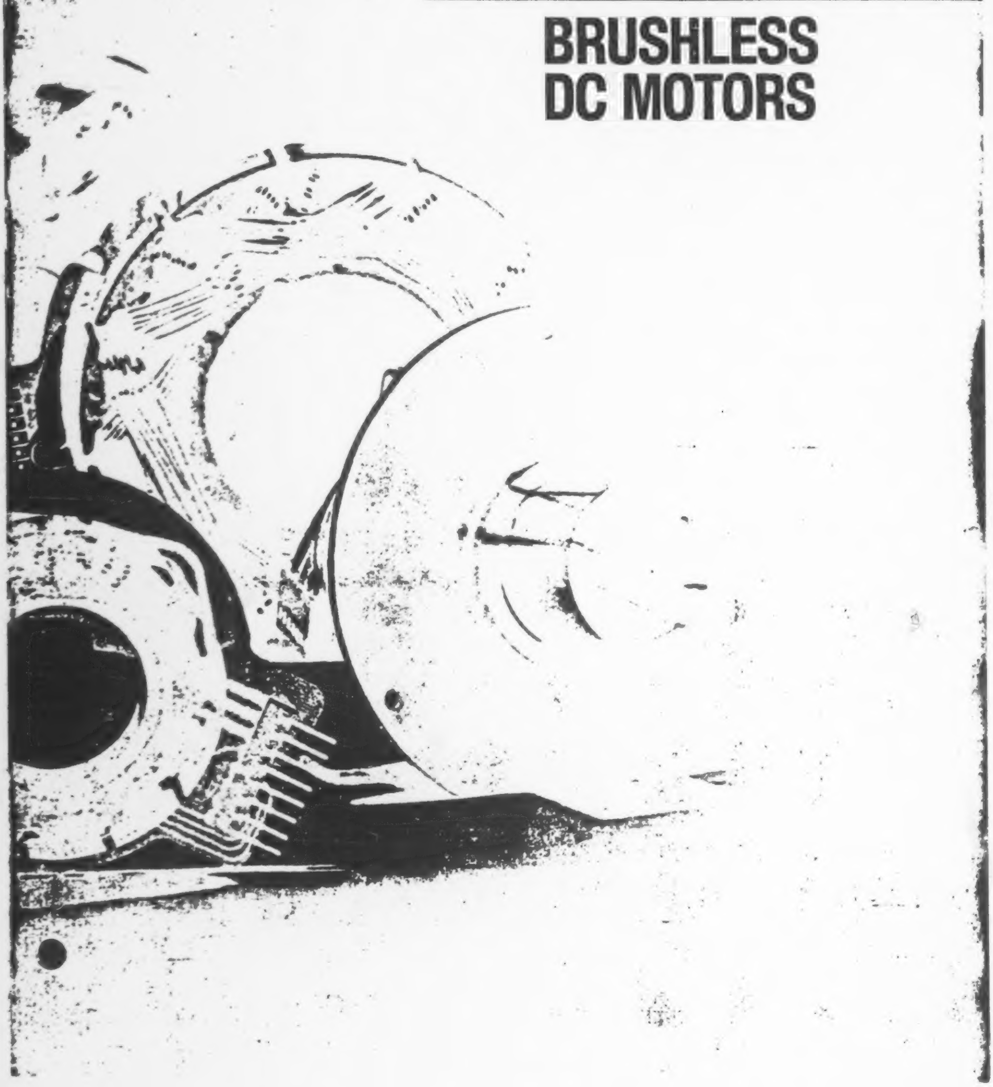
We feel that the development and sustainance of a healthy U.S. industry will bring long-run benefits to the U.S. consumer and U.S. industry. In fact, the availability of a U.S. design capability for motors is essential to the maintenance of U.S. leadership in the peripheral area.

We feel that U.S. trade policy with respect to motors is a complex subject area, and that the present legislation, while intended to benefit a particular company, might have the unintended effect of opening U.S. markets to other manufacturers whose products would have even less domestic content than those encompassed by the manufacturer in whose behalf the bill is being offerred.

Mr. Chairman, this is the conclusion of my prepared testimony. I thank you for the opportunity to present AIRPAX views on this legislation.

®

BRUSHLESS DC MOTORS



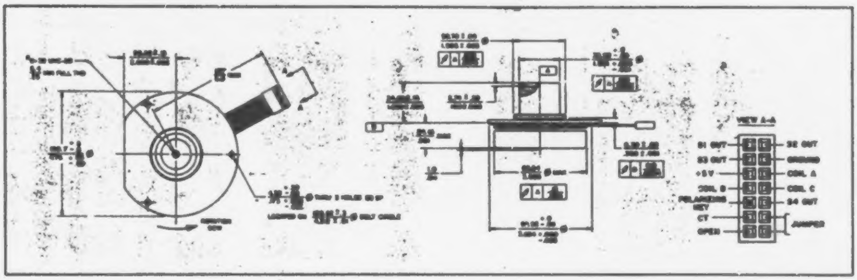
Series K85901 Brushless DC Motors/with spindle

This motor is designed specifically for 5¼" Winchester disk drives. It is a unipolar type, supplied complete with a high-precision spindle assembly.

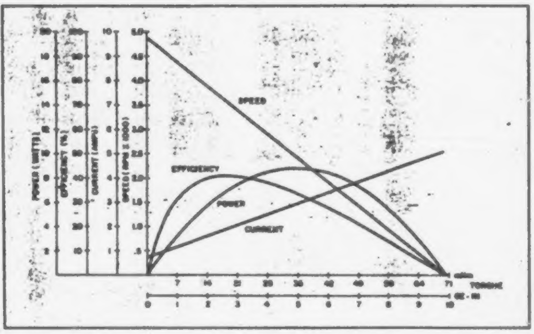
Outstanding features:

- Extremely close tolerance of spindle assembly. Repetitive hub runout is 400 micro-inches max. Non-repetitive hub runout is under 50 micro-inches.
- The complete motor is assembled and packaged in a Class 100 white room to ensure freedom from contamination.
- Capable of driving up to five standard disks.
- Low EMI.
- Fluid magnetic seal between spindle housing and hub assembly prevents any contaminants in the permanently lubricated precision bearings from polluting the disk.
- An internal sensor which produces a timing pulse (open collector output) with each revolution.
- Spindle ground contact, made of stainless steel, insures positive ground and long life.

Outline and Mounting Dimensions



Typical Performance Curve



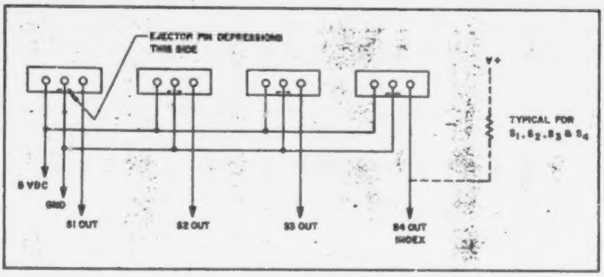
Typical Specifications (25°C)– Ordering Part No. K85901

No load speed	4800 rpm
Peak torque	63.5 mNm (9 oz-in)
Peak power	40 watts
No. of phases	3
No. of poles	4
Torque constant	18 mNm/A (2.3 oz-in/A)
Voltage constant	0.018 volts/rad/sec (1.7 volts/1000 rpm)
Applied voltage	9Vdc
Inductance line to line (@1000Hz)	0.89 mH
Coil resistance line to line	1.2 ohms
Thermal resistance*	3°C/watt
Inertia	0.42 g.m² (0.06 oz-in/sec²)
Weight	0.68kg (1.5 lbs.)

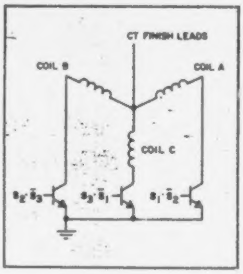
*3600 rpm, 1.3 oz-in load, no heat sink

Series K85901 Brushless DC Motors/with spindle

Hall Effect Switching


EJECTOR PIN DEPRESSIONS THIS SIDE
V+
TYPICAL FOR S_1, S_2, S_3 & S_4
5 VDC
GND
S1 OUT
S2 OUT
S3 OUT
S4 OUT INDEX

Coil Diagram


CT FINISH LEADS
COIL B
COIL A
COIL C
$S_2 \cdot \bar{S}_3$
$S_3 \cdot \bar{S}_1$
$S_1 \cdot \bar{S}_2$

Switching and Commutation Sequence

The three Hall cells mounted 60 mechanical degrees apart are effected by the rotor magnets to provide the logic outputs S_1 S_2 and S_3 according to the Truth Table—Commutation Sequence Chart. Switch S_4 is a once per revolution Index Pulse (50 micro seconds minimum pulse width @ 3600 rpm).

Each output is an open collector which must be connected to a voltage supply V+ through a resistor R to limit the current. The maximum voltage is 25 Vdc and the maximum current is 15mA.

If V+ is 5Vdc the resistor could be 1KΩ. Logic 1 would thus be 5 Vdc.

The switching sequence is a three state sequence which repeats twice every revolution.

Interface Logic between the S_1, S_2, S_3 outputs and the coil drivers must be provided to give the indicated motor coil voltage polarity as shown for each of the six conditions.

Truth Table—Commutation Sequence—Rotation (CCW)

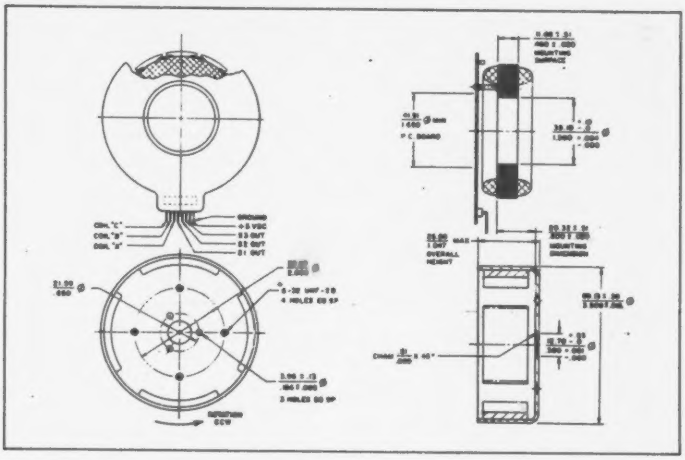
DEGREES	Electrical	0	60	120	180	240	300	0	60	120	180	240	300	0
	Mechanical	0	30	60	90	120	150	180	210	240	270	300	330	360
Hall Effect Switching	S_1	1	1	1	0	0	0	1	1	1	0	0	0	1
	S_2	0	0	1	1	1	0	0	0	1	1	1	0	0
	S_3	1	0	0	0	1	1	1	0	0	0	1	1	1
Motor Coil Switching	A	ON	ON	OFF	OFF	OFF	OFF	ON	ON	OFF	OFF	OFF	OFF	ON
	B	OFF	OFF	ON	ON	OFF	OFF	OFF	OFF	ON	ON	OFF	OFF	OFF
	C	OFF	OFF	OFF	OFF	ON	ON	OFF	OFF	OFF	OFF	ON	ON	OFF

Series L85101 Brushless DC Motors/Kits

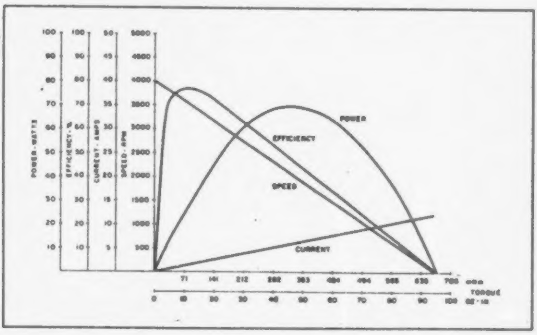
The 3¼" O.D. L85101 brushless DC motors are designed especially for 8" rigid disk drives, as well as for other high-precision, high-reliability servo and drive applications. They consist of a 3-phase wye connected stator winding, and 4-pole permanent magnet field rotor. They deliver optimum power at efficiency up to 80%.

They are supplied as an assembly kit consisting of rotor and stator. The user adds spindle and drive electronics. Hall effect sensors are mounted in the stator to control switching. Custom spindle can be supplied on request.

Outline and Mounting Dimensions


COIL "C"
COIL "B"
COIL "A"
GROUND
+5 VDC
S3 OUT
S2 OUT
S1 OUT
4 HOLES EQ SP
3 HOLES EQ SP
ROTATION CCW
P C BOARD
MOUNTING SURFACE
OVERALL HEIGHT
MOUNTING DIMENSION

Typical Performance Curves



Typical Specifications (25°C)– Ordering Part No. L85101

No load speed	4000 rpm
Peak torque	636 mNm (9 oz-in)
Peak power	60 watts
No. of phases	3
No. of poles	4
Torque constant	55 mNm/A (7.8 oz-in/A)
Voltage constant	0.055 volts/rad/sec (5.8 volts/1000 rpm)
Applied voltage	24Vdc
Inductance line to line (@1000Hz)	1.4 mH
Coil resistance line to line	1.3 ohms
Thermal resistance*	12°C/watt
Inertia	0.42 g m² (0.06 oz-in/sec²)
Weight	0.55kg (1.2 lbs.)

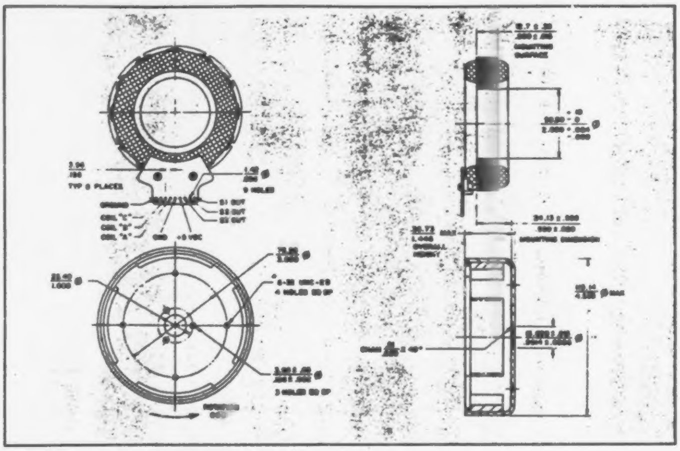
*Static stator rotor kit, no heat sink

Series K85401 Brushless DC Motors/Kits

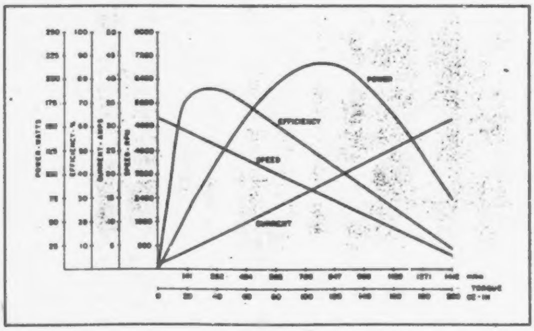
These 4½" brushless DC motors are designed specifically for 8" multiple stack or 14" single stack rigid disk drives, as well as for other applications needing high-efficiency and good speed control, such as pumps, centrifuges and process equipment. They have high-efficiency, up to 75%, produce no major EMI and have excellent speed control.

They are supplied as an assembly kit of rotor and stator, to which the user adds spindle and drive electronics. Hall effect sensors are mounted in the stator to control switching. Custom spindle can be supplied on request.

Outline and Mounting Dimensions


TYP 6 PLACES
9 HOLES
GROUND
COIL "C"
COIL "B"
COIL "A"
GND
+5 VDC
S1 OUT
S2 OUT
S3 OUT
6-32 UNC-2B
4 HOLES EQ SP
3 HOLES EQ SP
ROTATION CCW
MOUNTING SURFACE
OVERALL HEIGHT
MOUNTING DIMENSION
MAX

Typical Performance Curves



Typical Specifications (25°C)– Ordering Part No. K85401

No load speed	5000 rpm
Peak torque	1412 mNm (200 oz-in)
Peak power	200 watts
No. of poles	3
No. of phases	4
Torque constant	42 mNm/A (6 oz-in/A)
Voltage constant	0.042 volts/rad/sec (4.4 volts/1000 rpm)
Applied voltage	24Vdc
Inductance line to line (@1000Hz)	0.4 mH
Coil resistance line to line	0.32 ohms
Thermal resistance*	10°C/watt
Inertia	1.55 g.m^2 (0.22 oz-in/sec^2)
Weight	1.1 kg (2.5 lbs.)

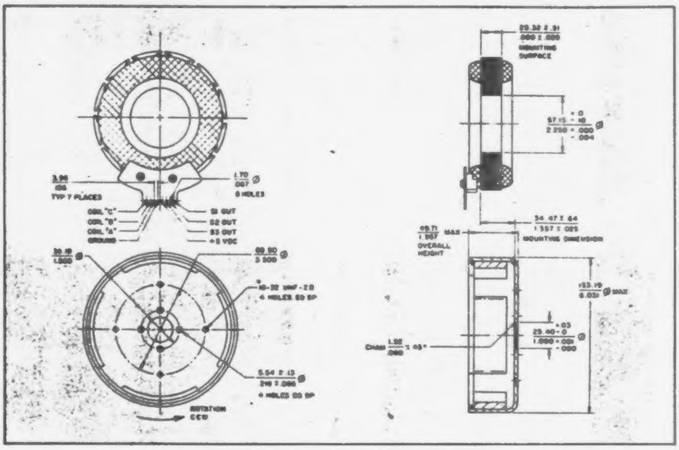
*Static: stator rotor kit, no heat sink.

AIRPAX CORPORATION, Cheshire, Connecticut

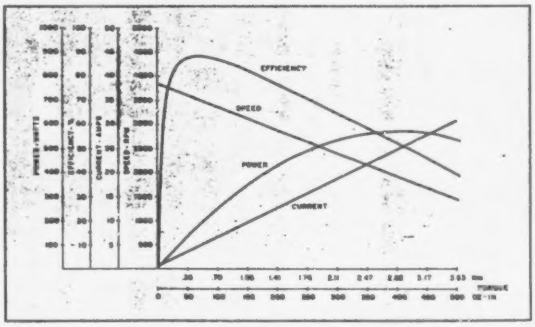
Series K85601 Brushless DC Motors/Kits

These 6" brushless DC motors are applicable to large disk drives and other uses where higher torque values are needed. Efficiency is up to 85%. No major EMI. They are supplied as an assembly kit consisting of rotor and stator. The user adds spindle and drive electronics. Hall effect sensors are mounted in the stator to control switching. Custom spindle can be supplied on request.

Outline and Mounting Dimensions


TYP 7 PLACES
COIL "C"
COIL "B"
COIL "A"
GROUND
S1 OUT
S2 OUT
S3 OUT
+5 VDC
4 HOLES EQ SP
4 HOLES EQ SP
ROTATION CCW
MOUNTING SURFACE
OVERALL HEIGHT
MOUNTING DIMENSION
MAX

Typical Performance Curves



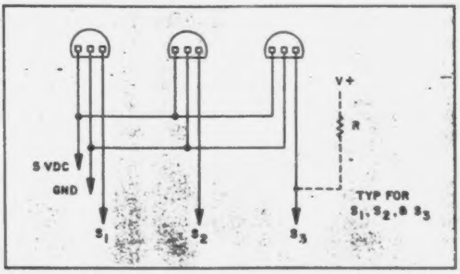
Typical Specifications (25°C)– Ordering Part No. K85601

No load speed	3800 rpm
Peak torque	up to 4.9 mNm (700 oz-in)
Peak power	500 watts
No. of phases	3
No. of poles	4
Torque constant	106 mNm/A (15 oz-in/A)
Voltage constant	0.106 volts/rad/sec (11 volts/1000 rpm)
Applied voltage	48Vdc
Inductance line to line (@1000Hz)	0.85 mH
Coil resistance line to line	0.30 ohms
Thermal resistance*	4°C/watt
Inertia	7.77 g.m^2 (1.[illegible] oz-in/sec^2)
Weight	3 kg (6.6 lbs.)

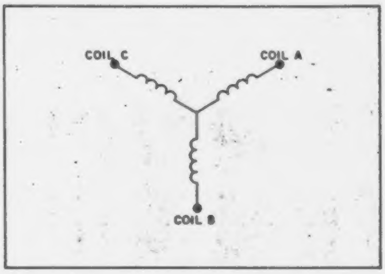
*Static stator rotor kit no heat sink

Series L85101, K85401 and K85601 Brushless DC Motors/Kits

Hall Effect Switching



Coil Diagram



Switching and Commutation Sequence

The three Hall cells mounted 30 mechanical degrees apart are effected by the rotor magnets to provide the logic outputs S_1, S_2 and S_3 according to the Truth Table—Commutation Sequence Chart.

Each output is an open collector which must be connected to a voltage supply V+ through a resistor R to limit the current. The maximum voltage is 25 Vdc and the maximum current is 15mA.

If V+ is 5Vdc the resistor could be 1KΩ. Logic 1 would thus be 5 Vdc.

The switching sequence is a six state sequence which repeats twice every revolution.

Interface Logic between the S_1, S_2, S_3 outputs and the coil drivers must be provided to give the indicated motor coil voltage polarity as shown for each of the six conditions.

Truth Table—Commutation Sequence—Rotation (CCW)

DEGREES	Electrical	0	60	120	180	240	300	0	60	120	180	240	300	0
	Mechanical	0	30	60	90	120	150	180	210	240	270	300	330	360
Hall Effect Switching	S_1	0	0	0	1	1	1	0	0	0	1	1	1	0
	S_2	0	0	1	1	1	0	0	0	1	1	1	0	0
	S_3	0	1	1	1	0	0	0	1	1	1	0	0	0
Motor Coil Switching	A	+	+	OFF	–	–	OFF	+	+	OFF	–	–	OFF	+
	B	–	OFF	+	+	OFF	–	–	OFF	+	+	OFF	–	–
	C	OFF	–	–	OFF	+	+	OFF	–	–	OFF	+	+	OFF

Airpax Corporation A North American Philips Company
Cheshire Division
Cheshire Ind. Park Cheshire CT USA 06410 203 272-0301
Telex 96-2421   TWX 710-455-4048

Senator **Danforth**. Senator Matsunaga.

Senator **Matsunaga**. How many employees do you have?

Mr. **Abbott**. Sir, we have 800 employees in Cheshire, Conn. About a tenth of those are involved in the brushless d.c. motors. We also have plants in Maryland and Florida.

Senator **Matsunaga**. Mr. Steger, how many employees are involved in your company?

Mr. **Steger**. We project to have around 150 by the end of the year. We are currently at 100.

Senator **Matsunaga**. No further questions.

Senator **Danforth**. Senator Chafee.

Senator **Chafee**. Thank you, Mr. Chairman.

Mr. Steger, what do you say to what Mr. Abbott has to say?

Mr. **Steger**. Well, first of all, this bill does not alter the competitive structure of the industry, because the Japanese, who are importing finished motors at a much lower rate than——

Senator **Chafee**. Hang on a minute. See if I understand. Under the present tariff laws you can import the entire motor for less than you can import—there is less duty on that than there is on the individual pieces of that motor that you bring in?

Mr. **Steger**. That is correct, about half.

Senator **Chafee**. And what you are saying is that you make parts of it here and you import the other parts, and thus the total motor you make is a higher cost than an imported motor because of the high tariffs that are on the individual parts?

Mr. **Steger**. Yes.

Senator **Chafee**. Now, do I understand that Mr. Abbott is saying that he can supply you with those parts that you import? Is that right?

Mr. **Steger**. Yes and no.

Mr. **Abbott**. Not directly for his motors, Senator, but the motor that we produce here is 100-percent domestically sourced.

Senator **Chafee**. All right. Go ahead.

Mr. **Steger**. It is our intent to source our parts domestically, as well. The problem is, right now the tariff structure is such it doesn't allow us to do that on an economic basis. We are forced to import parts kits right now which don't allow any flexibility at all in sourcing any of the parts domestically. We either have to import a parts kit or a finished motor; for example, we can't source this part of the motor which we would like to source domestically perhaps without adversely affecting the overall structure of the tariff. And therefore, this bill will give us the time needed to develop suitable domestic sources of supply for all our components and therefore be 100-percent American made.

Senator **Chafee**. Now, what do you say to that, Mr. Abbott?

Mr. **Abbott**. Sir, at the present time we can provide a U.S. customer with a motor that is 100-percent American made. And we also feel that sourcing of the individual components—there is the capability with the technology present within our vendor base, which is available, basically, locally in New England, to provide these kinds of components.

Senator **Chafee**. Yes. You are not very far apart geographically. Have you met?

Mr. **Steger.** Not recently.

[Laughter.]

Senator **Chafee.** Well, please do.

Mr. **Steger.** OK.

[Laughter.]

Senator **Chafee.** Well, all right.

Mr. **Steger.** I would reply just to the statement that Mr. Abbott just made, in terms of locating sources of supply: We feel certain we will be able to locate sources of supply; the problem is, it takes time to develop these particular sources that will meet the specific needs of our particular designed motor. We were the pioneers in the field, and we have certain specific design characteristics which make our motor one of the dominant motors in the industry today.

Senator **Chafee.** Well, we hope you enjoy thriving success.

Mr. **Steger.** We hope so, also, Senator.

Senator **Danforth.** Thank you very much.

Senator **Chafee.** Thank you.

Thanks, Mr. Steger and Mr. Abbott.

Senator **Danforth.** Now we go to S. 702: Mr. Goldberg and Mr. Chambers.

STATEMENT OF EDWARD GOLDBERG, ELBE PRODUCTS, INC., MELVILLE, N.Y., ACCOMPANIED BY MORRIS J. AMITAY, WASHINGTON, D.C.

Senator **Danforth.** Mr. Goldberg.

Mr. **Goldberg.** Mr. Chairman, Senators, my name is Edward Goldberg, director of marketing and sales of Elbe Products. I am accompanied by our Washington counsel, Morris J. Amitay, and we appreciate the opportunity to appear before the subcommittee today.

We would like to make your subcommittee aware of our strongest opposition to Senate bill 702.

Elbe Products is a U.S. corporation located in New York, with warehouse and office facilities both in New York and in St. Louis. Elbe Products and its associate companies are suppliers of imitation leather and employ approximately 700 people in the United States.

We import products that are comprised of layers of plastics and textiles backing and are closely made to resemble leather in appearance and feel.

Elbe Products has recently been involved in a costly and lengthy court case regarding the proper classification of these products. This case was favorably decided for us by the Court of Customs and Patent Appeals. The court found products in imitation of leather to be properly classified in schedule 7 of the Tariff Schedules. We believe that this section of Senate bill 702 had been drafted specifically to reverse the *Elbe* decision and did not receive appropriate consideration by the House Ways and Means Committee.

It should be noted that in the *Elbe* case the merchandise consisted of imitation leather, and that's what Elbe is interested in. The imitation leather is sold to domestic manufacturers of footwear, handbags, and luggage, a group of industries that employ domestically approximately 150,000 people for domestic manufacturing. Reclassifications through legislation would result in a duty increase on this type of merchandise. This would create increased costs for these domestic industries and ultimately for American consumers when the increased raw materials costs are passed along.

I refer to a comment made by B. H. Bridgewater, the president of the Brown Group of St. Louis, Mo., this past week before the Los Angeles Committee of Security Analysts, where he stated that the Brown Shoe Co., in order to remain competitive in their domestic manufacturing, is going to increase their purchasing of foreign materials.

Thus, a duty increase affecting this merchandise is not appropriate at a time when public policy dictates continuing to fight to control inflation and stimulate domestic manufacturing recovery.

Further, this is not the time to place an additional burden on the U.S. footwear industry. With the passing of the American selling-price basis of appraisal, the footwear industry is particularly vulnerable today. As we heard from an earlier witness, imports of footwear have risen dramatically, causing domestic manufacturers to file section 301 complaints with the U.S. Trade Representative.

It is also important to note that a section of 702 seeks to eliminate tariff provisions that were specifically created in the Tariff Schedules Technical Amendments Act of 1965. The tariff provisions created through the act in 1935 intended to have imitation leather products such as those that we import classified under section 7 and not schedule 3 of the Tariff Schedules. This bill would revoke the legislation to a minor or noncontroversial tariff bill, even though opposition was expressed by a number of members of the House Ways and Means Committee such as Congressman Frenzel.

Also, the proponents of this change probably do not realize that more American jobs would be lost by their legislation than if the present classification remained. More U.S. workers depend on the importation of this material for their livelihood than would be helped by raising its cost, making their products less competitive, thereby causing the loss of even more jobs.

It is not uncommon, as you all know, to revoke prior legislation when the circumstances change or where Congress realizes that the earlier legislation had been in error. Here, however, we believe that the competing interests are the same as originally. This legislation will injure domestic footwear, handbag, and luggage manufacturers who utilize this raw material but was very little benefit to anyone other than the imitation leather manufacturers.

The industries likely to be hurt by this legislation are the very industries which benefitted when the Tariff Schedules technical amendments were first passed. Not only are the competing interests the same but the viability of these domestic operations is even more questionable today than in 1965, and there are more compelling reasons for protecting the shoe and the luggage and leather goods industries today than previously.

Additionally, Congress should realize that the legislation proposed here is much broader than is required in this situation. The *Elbe* case which started this legislation is limited to classification of imitation leather-type products. Elbe is a retrial of this issue after the Customs

Service limited the appellate court's decision in *U.S.* v. *Canadian Vinyl.* The import of these cases taken together, which rely heavily on legislative history set out in the Tariff Schedules Technical Amendments Act, is that the plastic-coated textiles which are in imitation of leather are classifiable under schedule 7 of the Tariff Schedules.

Basically what we are saying, Senators and Mr. Chairman, is that this bill is much too broad for what it's trying to do, and that it totally works against what we think is the intent of the original legislation and the intent of the courts.

Thank you.

Senator DANFORTH. Thank you, sir.

[Mr. Edward Goldberg's prepared statement follows:]

TESTIMONY

SUBMITTED TO THE SUBCOMMITTEE
ON INTERNATIONAL TRADE
UNITED STATES SENATE COMMITTEE ON FINANCE
RELATING TO MISCELLANEOUS TARIFF BILL H.R. 3398 (S. 702)

October 21, 1983

On Behalf of Elbe Products, Inc.
Edward Goldberg
Director of Marketing and Sales
30 Hub Drive
Melville, NY 11747
(516) 420-8844

Mr. Chairman:

My name is Edward Goldberg, Director of Marketing and Sales of Elbe Products, Inc. I am accompanied by our Washington counsel, Morris J. Amitay, and we appreciate the opportunity to appear before this Subcommittee today.

We would like to make your Subcommittee aware of our strongest opposition to Section 111 of H.R. 3398 (S. 702).

Elbe Products is a United States corporation located at 30 Hub Drive, Melville, New York, 11746, with warehouse facilities and offices both in New York and in St. Louis. Elbe Products and its associated companies are suppliers of imitation leather and employ approximately 700 people in the United States who are involved with the importation and distribution of this merchandise. Their imported products are comprised of layers of plastic and textile backing and closely resemble leather in appearance and feel.

Elbe Products had recently been involved in a costly and lengthy court case regarding the proper classification of these products. This case was favorably decided for Elbe by the Court of Customs and Patent Appeals (The United States vs. Elbe Products, ______CCPA _____, C.A.D. 1267 (1981)). The Court found products in imitation of leather to be properly classified in Schedule 7 of the Tariff Schedules. We believe that Sec. 111 had been drafted specifically to reverse the Elbe decision and did not receive appropriate consideration by the House Ways and Means Committee. We believe that this provision should not be included in any Senate bill for a number of valid and compelling reasons.

It should be noted that in the Elbe case the merchandise consisted of imitation leather. This imitation leather is sold to domestic manufacturers of footwear, handbags, and luggage and is used as a raw material in those domestic manufacturing operations. Reclassifications through legislation would result in a duty increase on this type of merchandise. This would create increased costs for these domestic industries and ultimately for American consumers when the increased raw materials costs are passed along. Thus, a duty increase affecting this merchandise is clearly not appropriate at a time when public policy dictates continuing the fight to control inflation and stimulating domestic manufacturing recovery.

Further, this is not the time to place an additional burden on the United States footwear industry. With the passing of the American Selling Price basis of appraisal, and Orderly Marketing Agreements which have expired, the footwear industry is particularly vulnerable today. Imports of footwear have risen dramatically, causing domestic manufacturers to file a Section 301 complaint with the U.S. Trade Representative. Additionally, we believe that certain domestic footwear manufacturers have requested trade assistance so that they may remain viable.

It is also important to note that Sec. 111 seeks to eliminate tariff provisions that were specifically created in the Tariff Schedules Technical Amendments Act of 1965. The tariff provisions created through the Act in 1965 intended to have imitation leather products, such as those imported by Elbe, classified under Schedule 7 of the Tariff Schedules and not Schedule 3 of the Tariff Schedules. Sec. 111 would revoke that legislation through a "minor" or "non-controversial" tariff bill, even though opposition was expressed by a number of members of the House Ways and Means Committee.

Also, the proponents of this change probably do not realize that more American jobs would be lost by their legislation than if the present classification remained. More U.S. workers depend on the importation of this material for their livelihoods than would be helped by raising its costs and making their products less competitive -- thereby causing the loss of jobs. This fact will undoubtedly be made public by the labor unions affected when the unintended ramifications of this measure are appraised.

It is not uncommon to revoke prior legislation where circumstances change or where Congress realizes that the earlier legislation has been an error. Here, however, we believe that the competing interests are the same as originally. This legislation will injure domestic footwear, handbag, and luggage manufacturers, who utilize this raw material while it is of very little benefit to anyone other than the imitation

2)

leather manufacturers. The industries likely to be hurt by this legislation are the very industries which benefitted when the Tariff Schedules Technical Amendments Act specifically directed Customs to classify imitation leather under Schedule 7 of the Tariff Schedules. Not only are the competing interests the same, but the viability of these domestic operations is more questionable today than in 1965 and there are more compelling reasons for protecting the interests of all of these domestic industries than only those of the manufacturers of imitation leather.

Additionally, Congress should realize that the legislation proposed here is much broader than is required in this situation. The Elbe case, which stimulated this legislation is limited to the classification of imitation leather type products. Elbe is a retrial of this issue after the Customs Service limited the appellate court's decision in the United States vs. Canadian Vinyl Industries, 64 CCPA 97, C.A.D. 1189 (1977). The import of these cases taken together, which rely heavily on the legislative history set out in the Tariff Schedules Technical Amendments Act, is that plastic-coated textiles which are in imitation of leather are classifiable under Schedule 7 of the Tariff Schedules. Nothing has been ordered by the Customs Court. In fact, when an importer attempted to apply this history to an imitation suede leather situation, the importer was unsuccessful (See C. Itoh & Co, America, Inc. ______C.I.T.______, Slip Op. 81-29 (decided April 7, 1981)).

Against this background, Sec. 111 is not only controversial, and harmful overall to U.S. industry, but is much broader than is required to remedy the problem created by the Elbe and Canadian Vinyl decisions and so limited that they should not be the subject of legislation at all. The impact on the domestic man-made fiber or plastics industry can only be slight, whereas the harm to the entire domestic footwear, handbag, and luggage industries will be appreciably great if Sec. 111 is enacted.

Further, the desire of the proponents of this legislation to classify certain vinyl and plastic products as textile articles simply because they include some textile components would lead to a convoluted and strained interpretation of the Tariff Schedules. This kind of tariff classification practice which goes against common understanding and clarity should be avoided in structuring Tariff Schedules.

Finally, Congress should consider the impact of Sec. 111 on our relationship with our trading partners. Unnecessary and blatant protectionist legislation contained in Sec. 111 is contrary to the Administration's stated trade policy and is contrary to the general trend of duty rate reductions pursuant to the latest GATT rounds. Compensation, if given, could also adversely impact additional domestic parties.

In conclusion, the Tariff Schedules as currently drafted provide for a sensible classification scheme and one recently endorsed by the courts. To legislate a change such as that contained in Sec. 111, the Senate Finance Committee should be presented with a better rationale than that of the specific interest involved here.

STATEMENT OF GORDON J. CHAMBERS, PRESIDENT, CHAMCO, INC., WHITE PLAINS, N.Y., ON BEHALF OF THE INDUSTRIAL FABRICS ASSOCIATION INTERNATIONAL AND OTHERS

Senator DANFORTH. Mr. Chambers.

Mr. CHAMBERS. Good morning, Mr. Chairman and members of the Senate subcommittee. My name is Gordon Chambers, and I am a member of the board of directors of the Industrial Fabrics Association International and immediate past chairman of the association's coaters and laminators division.

I am testifying today on behalf of a broad labor-industry coalition which supports S. 702, already passed by the House of Representatives as section 111 of H.R. 3398.

S. 702 is sponsored by Chairman Danforth and Senators Moynihan and Mitchell. This bill is essential to preserve an American industry providing over $1.1 billion in product and employing 50,000 people.

I am pleased to note that the administration raised no objection to the companion measure in testimony before the House Ways and Means Subcommittee on Trade. If enacted into law, S. 702 will restore imported coated and laminated fabrics currently classified as "plastic sheeting," to classifications "textiles" under schedule 3.

The fabrics with which we are concerned are woven or nonwoven textiles which have a rubber or plastic coating on one or both sides.

We are not here to ask the Congress or the executive branch to change their classification of coated and laminated fabrics, for the legislative history cited in our written testimony or statement makes clear the fact that the Congress already considers these fabrics to be "textiles," and the Treasury Department and Customs Service have always followed this intent.

What has happened, however, is that the Court of Customs and Patent Appeals has ruled that congressional and longstanding administrative practices may no longer be followed. As a result, most imported coated or laminated fabrics must now be classified as "plastic sheeting" under schedule 7, rather than "textiles" under schedule 3.

S. 702 clarifies the language of the tariff schedules to insure that these fabrics are from now on classified, as Congress always has meant them to be, as "textiles."

As a result of the court decision, the duty assessed upon many imported coated and laminated fabrics was slashed, and, indeed, the availability of duty-free entry under the generalized system of preferences was dramatically increased. S. 702 would return these textile fabrics to the tariff category the Congress intended.

To illustrate this point, we would note that importers such as our friends here, Elbe Products, currently bring in coated fabrics from Western Europe and directly compete with members of our industry. Under the *Elbe Products* court case, they pay a duty of 5.1 percent. When we import the same fabrics to compete in the European markets, we are assessed a duty of 13.3 percent. All S. 702 seeks to do is to restore parity in tariff treatment. U.S. manufacturers seek no special protection; we are prepared to compete both domestically and in foreign markets. All we seek are fair rules and a level playing field.

The scope of 702 is purposely narrow. The ITC has reviewed it to insure that it affects only coated and laminated fabrics. PVC plastic sheeting is entirely unaffected by the bill. It has no textile substraight; it is entirely different in composition, and it is used in a very different application. Moreover, the bill would have almost no effect upon the volume of imported high plastic content fabrics used in manufacturing automobile seatcovers, sport bags, tennis racquet covers, and other items of that type. These fabrics still would be eligible for duty-free entry under GSP, and applicable rates of duty would not be substantially affected.

The most important impact of S. 702 would be to restore reasonable tariff treatment to the coated fabrics which are 30 percent or more, by weight of fabric, knitted or woven from manmade fibers, as well as light-weight cotton coated fabric or newer coated nonwoven fabrics. These coated fabrics would be returned from schedule 7 to schedule 3.

If S. 702 is not enacted, we expect to see a substantial investment in foreign production of fabrics to meet these descriptions, with a severe impact on domestic coated and laminated fabrics.

Our fabrics are used in wallcoverings, upholstery, automotive, apparel, construction, luggage and footwear, and the marine and boating industries.

I would note that we have been advised that the U.S. footwear industry does not oppose this legislation.

On behalf of those in this industry, I appreciate the time.

Senator Danforth. Thank you.

[Mr. Gordon J. Chambers' prepared statement follows:]

TESTIMONY OF GORDON J. CHAMBERS

IN SUPPORT OF

S. 702

BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL TRADE

OF THE
SENATE COMMITTEE ON FINANCE

ON BEHALF OF

Industrial Fabrics Association International
St. Paul, Minnesota

Amalgamated Clothing and Textile Workers Union
New York, New York

American Textile Manufacturers Institute
Washington, D.C.

B.F. Goodrich
Akron, Ohio

Chemical Fabrics and Film Association
Cleveland, Ohio

Compo Industries
Lowell, Massachusetts

INDA, Association of the Non-Woven Fabrics Industry
New York, New York

Knitted Textile Association
New York, New York

Man-Made Fiber Producers Association
Washington, D.C.

Northern Textile Association
Boston, Massachusetts

Wallcovering Manufacturers Association
Springfield, New Jersey

SUMMARY OF PRINCIPAL POINTS IN SUPPORT OF S.702

1. The legislative history of the 1963 Tariff Schedules and of the Technical Amendments Act of 1965 clearly indicates that textile fabrics coated or laminated on one or both sides with rubber or plastic should be classified as textiles. The Treasury Department and Customs Service have always followed this intent.

2. The U.S. Court of Customs and Patent Appeals twice ignored this Congressional intent. As a result, most imported coated or laminated fabrics are now classified as plastic sheeting.

3. By clarifying TSUS headnote language, S.702 returns coated and laminated fabrics to Schedule 3.

4. PVC vinyl sheeting is not affected by S.702.

5. Coated fabrics utilized to produce automobile seat covers, sports bags and tennis racket covers are virtually unaffected by S.702.

6. S.702 is supported by an industry which directly employs 50,000 persons and which produced fabrics valued at $1.1 billion in 1982.

7. The companion measure has already been passed by the House of Representatives as Section 111 of H.R. 3398.

8. The Administration reviewed S.702 and testified in the House that it has no objection to the bill.

Good morning Mr. Chairman and members of the Subcommittee. My name is Gordon Chambers. I am a member of the Board of Directors of the Industrial Fabrics Association International and the immediate past chairman of that association's Coaters and Laminators Division. I appreciate the opportunity to be here today to testify in support of S. 702, already passed by the House of Representatives as Section 111 of H.R. 3398. S. 702 is sponsored by Chairman Danforth and Senators Moynihan and Mitchell. I am pleased to note that the Administration raised no objection to the companion measure in testimony before the House Ways and Means Subcommittee on Trade.

If enacted into law, S. 702 will reclassify imported coated and laminated fabrics, currently classified as plastic sheeting, as textiles under Schedule 3. I will attempt to summarize briefly the contents of the written statement filed with the Subcommittee on September 9th, and request that the statement be included in the record of these proceedings.

I am testifying today not just on behalf of the Industrial Fabrics Association International. Rather, I am here today representing a broad labor-industry coalition which also includes the Amalgamated Clothing and Textile Workers Union, the American Textile Manufacturers Institute, the Man-Made Fiber Producers Association, the Chemical Fabrics and Film Association, the Wallcovering Manufacturers Association, the Knitted

Textile Association, the Association of the Non-Woven Fabrics Industry, the Northern Textile Association, Compo Industries and B. F. Goodrich.

The U.S. coated and laminated fabrics industry directly employs approximately 50,000 people. In 1982 coated and laminated fabrics valued at approximately $1.1 billion were produced in the United States. These fabrics are used as wallcovering and upholstery, and in the automotive, apparel, construction, luggage, footwear, marine and boating, and air and water filtration industries. If S. 702 is not enacted, the coated and laminated fabrics industry and its employees face the prospect of severe injury from lower priced imports.

We are not here to ask the Congress or the Executive Branch to change their classification of coated and laminated fabrics, for the legislative history which we have cited in our written statement makes clear the fact that Congress already considers these fabrics to be textiles, and the Treasury Department and Customs Service have always followed this intent. What has happened, however, is that the Court of Customs and Patent Appeals has ruled that Congressional and long-standing administrative practice may no longer be followed. As a result, most imported coated or laminated fabrics must now be classified as plastic sheeting under Schedule 7, rather than as textiles under Schedule 3. S. 702 clarifies the language of the tariff schedules misinterpreted by the Court in order to ensure that these fabrics are, from now on, classified as Congress always has meant them to be, as textiles.

As a result of the Court decisions, the duty assessed upon many imported coated and laminated fabrics was slashed and, indeed, the availability of duty-free entry under the Generalized System of Preferences was dramatically increased. S. 702 is needed to return to these textile fabrics the tariff treatment which Congress intended them to receive. As has always been the case, many imported fabrics would, even when classified under Schedule 3, remain eligible for GSP treatment.

The bill's scope is purposely narrow. The ITC has reviewed it to ensure that it affects only coated and laminated fabrics. By that I mean a woven or non-woven textile fabric which has a rubber or plastic coating on one or both sides. PVC plastic sheeting, which has no textile component, and coated or laminated fabrics, which do have a textile substrate, are entirely different in composition and are used in very different applications. S. 702 would have no effect whatsoever upon PVC plastic sheeting.

Moreover, the bill would have almost no effect upon the volume of imported high-plastic content fabrics used in the manufacture of automobile seat covers, sports bags and tennis racket covers. These fabrics still would be eligible for duty-free entry under the GSP, and the applicable rates of duty would not be substantially affected.

The most important impact of S. 702 would be to restore reasonable tariff treatment for coated fabrics which are 30 percent or more by weight of fabric knitted or woven from man-made fibers. These coated fabrics would be returned from Schedule 7 to classification under TSUS 355.82, where the duty presently is $.08/lb plus 12.8% ad valorem, and where GSP treatment is not accorded. Also affected would be lightweight coated cotton fabrics which would be returned to TSUS 355.65, as well as the newer coated non-woven fabrics, which under S. 702 would be returned from Schedule 7 to TSUS 355.02 through 355.25.

If S. 702 is not enacted, we expect to see substantial new investment in foreign production of fabrics meeting these descriptions, with severe impact on the domestic coated fabric industry.

To illustrate our point, we would note that importers such as our friends at Elbe Products currently bring coated fabrics into the country from Western Europe in direct competition with members of our industry. Under the Elbe Products court case, they pay a duty of only 5.1 percent. When we attempt to export the same fabrics to compete in European markets, we are assessed a duty of 13.3 percent. All S. 702 seeks to do is to restore parity in tariff treatment. U.S. manufacturers seek no special protection. We are prepared to compete in both domestic and foreign markets. All we seek are fair rules and a level playing field.

On behalf of the industry groups and employees which I am representing here today, I urge your favorable and expedited consideration of S. 702. It is needed to reclassify as textiles the fabrics which the industry, the Administration and the Congress always have considered to be textiles.

I appreciate the opportunity to be here today and would be happy to respond to any questions the Subcommittee may have.

Senator DANFORTH. Senator Matsunaga.

Senator MATSUNAGA. Is this bill intended to reverse the *Elbe* decision, Mr. Chambers?

Mr. CHAMBERS. Our intent is to restore our—back in 1965, over 20 years ago, we as businessmen had relied on Congress to guide us in legislative areas where duty had been a problem. We have always been able to rely on that. Now we find a situation where we can't rely on that being a "textile." It's always been a "textile" as far as Congress is concerned; and now they have dropped it over into the schedule 7, which is a "plastic sheeting."

In all cases there is a textile involved, which is the substraight that must be coated.

Senator MATSUNAGA. Mr. Goldberg, are you of the impression that this bill, S. 702, would severely injure your industry?

Mr. GOLDBERG. Yes, I am, Senator. And in fact, to answer your previous question, if I may, Mr. Chambers' trade group in their publicity statement after the court of appeals ruled in our favor put out releases specifically to produce a bill to turn around the court's decision—to revoke the court's decision.

Senator MATSUNAGA. How many employees would be involved?

Mr. GOLDBERG. In what manner, Senator?

Senator MATSUNAGA. How many employees would be adversely affected, in your opinion?

Mr. GOLDBERG. Well, it is difficult to state; but if you take the total industries involved that use coated fabrics; that is, imitation leather, if you are talking those total industries, they employ over 150,000 people. Now, I can't honestly say they will all be affected, but the total industry is 150,000 people.

Senator MATSUNAGA. How would the employees be affected?

Mr. CHAMBERS. Well, it would be a devastating situation, because we would no longer be able to manufacture a coated and laminated fabric here in the United States, because it would be easier for us to import. So therefore we would eliminate jobs directly related to the 50,000.

We also would incorporate the weavers who we buy fabric from, and also incorporated in the weavers are the yarn producers. So it could be a devastating effect within the whole textile industry.

Senator MATSUNAGA. No further questions, Mr. Chairman.

Senator DANFORTH. Mr. Goldberg, do I understand you to say that the Brown Group opposes this bill?

Mr. GOLDBERG. Senator, yesterday, before I came here, I spoke to Ed Meiser, senior vice president of Brown, to tell them I was coming to testify. He said he totaly agreed with what I was testifying on. I consulted with him on some of my testimony, and he totally agreed with it.

Senator DANFORTH. And therefore it is your view that the Brown Group, which is a major corporate constituent of mine with many employees in the State of Missouri, is opposed to this bill. Is that correct?

Mr. GOLDBERG. Sir, they are for the idea of sourcing raw materials from abroad so they can more competitively compete with the domestic manufacturers.

Senator DANFORTH. Are they opposed to this bill?

Mr. GOLDBERG. Ed Meiser—once again, senior vice president of the Brown Shoe Co.—was opposed to the bill; but whether he has the ability to speak for the group, I don't know.

Senator DANFORTH. Mr. Meiser stated to you that he is opposed to this bill?

Mr. GOLDBERG. Yes, sir.

Senator DANFORTH. And is the Footwear Industry Association opposed to this bill?

Mr. GOLDBERG. In reality, sir, we just started to speak and talk to them about it this past week; so I can't give you a definite answer on that.

Senator DANFORTH. Do you have any knowledge of whether the footwear industry is opposed to this bill?

Mr. GOLDBERG. My feeling is that as they get more informed they will be.

Senator DANFORTH. That is your judgment?

Mr. GOLDBERG. Correct.

Senator DANFORTH. But they have not taken that position and stated it to you?

Mr. GOLDBERG. They have not taken that position yet. No, sir.

Senator DANFORTH. Mr. Nehmer, who is the spokesman for the Footwear Industry Association, was here this morning testifying on another bill. Wouldn't you think that he would be here testifying on this bill if the footwear industry had a position?

Mr. GOLDBERG. Senator, in all honesty, we have not contacted him yet specifically on this bill. We have talked to various owners of different footwear companies such as people in the Brown Group, such as Oncross Shoe up in New England. We have not actually contacted the association.

Senator DANFORTH. Do you think Brown Group is aware that I represent the State of Missouri in the Senate?

Mr. GOLDBERG. Yes, sir.

Senator DANFORTH. Do you think they would be in touch with the chairman of the International Trade Subcommittee if he had introduced this bill and they were against it?

Mr. GOLDBERG. Sir, as I said, I just spoke with Ed Meiser yesterday.

Senator DANFORTH. You are not a member of the Footwear Industry Association, are you?

Mr. GOLDBERG. No.

Senator DANFORTH. And you are not an employee of Brown.

Mr. GOLDBERG. No.

Senator DANFORTH. You can't purport to speak for them, can you?

Mr. GOLDBERG. No. As I said, I am just repeating what Mr. Meiser told me.

Senator DANFORTH. We have checked with Mr. Nehmer, and he says that the Leather Products Coalition which he represents has expressly taken the position that it does not and will not oppose this bill. He believes that is the position of the Footwear Industry Association, although he is not aware of whether or not they have taken any formal position, one way or another. But he thinks that that is also the position of the Footwear Industry Association. Do you think Mr. Nehmer is wrong or right?

Mr. **Goldberg.** Sir, I think when the Footwear Industry Association becomes more aware of the effect that this bill will have on their ability to compete in the domestic market, my feeling is—and once again, I can't speak for them—that they will be against the bill.

Senator **Danforth.** Well, you have spoken to them. You came before this subcommittee and you testified as to a position of Brown Group and knowing, I would think, that I happen to represent the State of Missouri in the U.S. Senate, and that the Brown Group is a major corporation in my State with many, many employees.

Mr. **Goldberg.** Senator, I specifically said "Mr. Ed Meiser, senior vice president of the Brown Shoe Co." And I said I do not know if he has the ability to speak for the group or not. I then specifically quoted a statement by Mr. Bridgewater last week in terms of their desire to source foreign raw materials. This is a public statement.

Senator **Danforth.** Well, I certainly am going to be in touch. I have tried to get in touch with them while you were testifying, and without success thus far. But you certainly have peaked my curiosity. This bill was introduced more than a year ago, and I would think that the Brown Group would have contacted me to state their position. And they have not, in over a year, contacted me to state their position on this bill. I have not heard anything by way of representation of the position of the Brown Group except for your representation of what you think is their view or what you think will be their view.

Mr. **Goldberg.** No, sir, it's what Mr. Meiser told me on the telephone as the view of, once again, the senior vice president for purchasing at the Brown Shoe Co.

Senator **Danforth.** For purchasing?

Mr. **Goldberg.** Correct.

Senator **Danforth.** Of the Brown Group?

Mr. **Goldberg.** Of Brown Shoe.

Senator **Danforth.** Of Brown Shoe?

Mr. **Goldberg.** Correct.

Senator **Danforth.** Which is a division of the Brown Group?

Mr. **Goldberg.** Correct.

And furthermore, by this statement, which was a public statement by Mr. Bridgewater, and which was in fact reported in this week's Boatwear News.

Senator **Danforth.** By Mr. who?

Mr. **Goldberg.** By Mr. Bridgewater, the president of the Brown Group.

Senator **Danforth.** What did he say?

Mr. **Goldberg.** Mr. Bridgewater, the president of Brown Group, as reported in this week's Boatwear News, stated, "Last week at a meeting in Los Angeles of the Society of Financial Analysts that Brown Shoe Co. is using foreign sourcing of components and materials to stay competitive in domestic manufacturing."

Senator **Danforth.** And what do you read that to mean?

Mr. **Goldberg.** I read that to mean, sir, that——

Senator **Danforth.** That Brown has turned into a bunch of free traders?

Mr. Goldberg. Well, it depends on what side they are on at the moment——

[Laughter.]

Mr. Goldberg [continuing]. As applies to all of us.

But I read it to mean that they see that, especially in urethanes and what is called "coagulated urethanes" which are used in shoe materials, they think that they can get more competitively priced materials and more fashionable materials from offshore.

Senator Danforth. Well, I certainly will find out what their position is. As I say, you have peaked my curiosity on it.

I took your initial statement as a statement of the position of Brown Group, and I don't think that is their position; but I will certainly find out.

Mr. Goldberg. No, sir. Specifically, I mentioned Mr. Meiser, and then the public statement of Mr. Bridgewater.

Senator Danforth. All right.

Gentlemen, thank you very much.

S. 453: Mr. Datt and Mr. Harris.

STATEMENT OF JOHN C. DATT, SECRETARY AND DIRECTOR OF THE WASHINGTON OFFICE, AMERICAN FARM BUREAU FEDERATION, ACCOMPANIED BY GUY DONALDSON, PENNSYLVANIA FARMERS ASSOCIATION, AND JERRY SIETSEMA, AMERICAN AGRICULTURAL MARKETING ASSOCIATION, APPLE DIVISION, LANSING, MICH.

Mr. Datt. Thank you very much, Mr. Chairman.

The purpose of this bill is to impose a one-tenth of 1 percent per gallon duty on applejuice. What I would like to do at this time is to introduce two leading applegrowers, one from the State of Pennsylvania and one from the State of Michigan, to comment on this particular legislation. And if there is time enough, I will summarize at the end.

[Mr. Datt's prepared statement follows:]

THE VOICE OF AGRICULTURE
AMERICAN FARM BUREAU FEDERATION

★ FARM BUREAU ★
★★ the nation's largest general farm organization ★★

STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION TO THE SUBCOMMITTEE ON INTERNATIONAL TRADE OF THE SENATE FINANCE COMMITTEE REGARDING S. 453

Presented by
John Datt, Secretary and Director, Washington Office

October 21, 1983

American Farm Bureau Federation
Washington Office — 600 Maryland Ave., SW, Washington, DC 20024. Phone: (202) 484-2222

STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION TO THE SUBCOMMITTEE ON INTERNATIONAL TRADE OF THE SENATE FINANCE COMMITTEE REGARDING S. 453

Presented by
John Datt, Secretary and Director, Washington Office

October 21, 1983

Farm Bureau appreciates the opportunity to comment on a tariff bill which has been referred to your Subcommittee on International Trade. S. 453, a bill Farm Bureau strongly supports, would impose a 1/10 of 1 cent per gallon duty on imported apple and pear juice.

The purpose of the 1/10 of 1 cent per gallon duty on apple and pear juice imports is merely a way to place subsidized Argentine apple juice imports in a dutiable category enabling Farm Bureau to file a countervailing duty petition without the bother and tremendous expense of proving "injury" to the domestic apple industry.

Farm Bureau is keenly interested in the passage of S. 453. This bill was introduced by Senator Warner and now has 15 cosponsors.

Over the past seven years, the quantity of apple juice imported into the United States has grown from 34.38 million gallons (single strength equivalent) in 1976 to 103.76 million gallons in 1982. Foreign apple juice is imported in concentrated form for reconstitution in this country. This represents the equivalent of more than 30 million bushels of apples, a figure greater than the average annual production of Michigan and Pennsylvania combined.

Twenty-three (23) million gallons of the increase are from Argentina which shipped 18.86 million gallons in 1976 and 41.95 million gallons in 1982. The quantity imported in 1981 represents 10.67 million bushels of apples, more from Argentina alone than the total annual apple production for the State of Virginia.

The dramatic increase in apple juice imports is a major concern to U.S. apple growers. Their concerns are magnified when we find that the government of an exporting nation is providing a substantial subsidy to the processors and exporters of that product. Farm Bureau finds a willingness of its members to compete with growers in other countries on a fair basis, but they cannot compete with the treasuries of other countries.

Attached are data providing the levels of imports from foreign sources for the period 1965-1983, and the quantities of apples represented by such imports. Also attached is a review of the subsidy schemes provided by the Argentine Government to its apple industry to develop export capabilities.

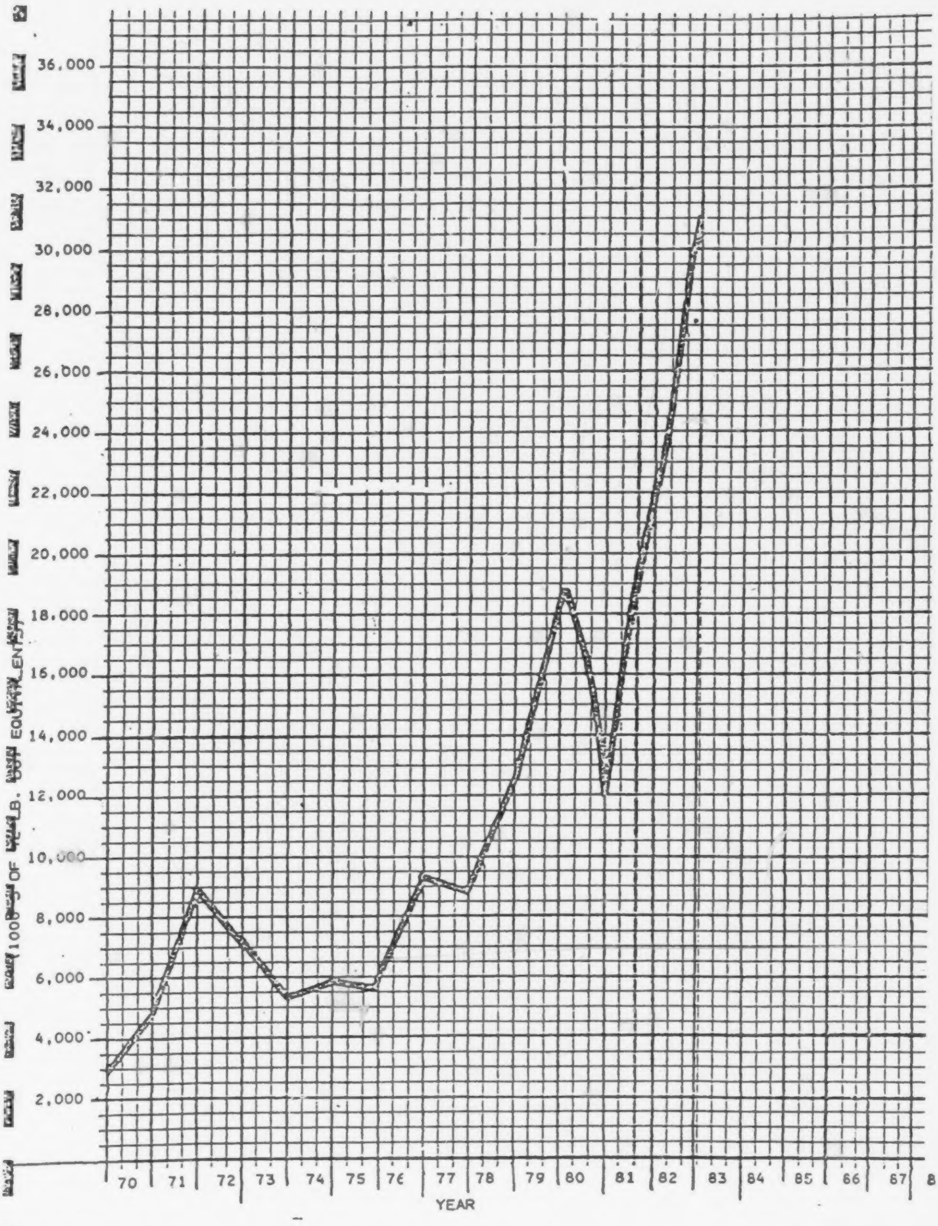
It is obvious from the information available to us that the Government of Argentina is indeed subsidizing its exports of apple juice into the United States' market to the detriment of U.S. apple growers and processors of domestic apple juice.

The Tariff Schedule of the United States provides a zero (0) duty on apple and pear juice imported from countries which enjoy the "Most Favored Nations" designation. Argentina has been so designated. Imports of apple and pear juice from countries not enjoying "Most Favored Nations" designation are subject to a duty of five (5) cents per gallon under T.S.U.S. Item No. 165.15. Apple and pear juice are the only juice imports free of duty under the M.F.N. category.

Since apple juice currently is not dutiable, the domestic apple juice industry would have to allege and the International Trade Commission would be required to determine "material injury" before a countervailing duty could be put into place to offset the Argentine subsidy advantage. Therefore, the purpose of S. 453 is to impose a minor duty on apple juice imports in order to place Argentina in a category whereby the Department of Commerce could investigate the export subsidies of Argentina with regard to apple juice and, if found to be as alleged, could initiate a countervailing duty action that would offset the Argentine subsidy advantage. This could be done without apple growers having to resort to costly legal fees to take their case before the International Trade Commission to prove material injury to the apple juice industry.

Farm Bureau will encourage those suffering from this practice to seek relief by petitioning the U.S. Department of Commerce to investigate these subsidies and if their findings are positive to instruct the Customs Service to apply countervailing duties as provided under Section 303 of the Tariff Act of 1930.

We urge that S. 453 be approved by your Subcommittee and that it be passed by the Congress to enable U.S. producers to seek relief from the subsidies provided by the Government of Argentina on apple juice exports from their country.



SOURCE: USDA FOREIGN AGRICULTUR [illegible] VICE [illegible] is available, no interest is charged and the [illegible] with a grace period of two years. (About $10 million U.S. worth of loans were utiliz by the CAJ sector.

PREVIOUS LETTERS FROM FAS CABLED FROM ARGENTINA 6-26-81, Joseph F. Somers, AG Counsel

- 1980 GOA established a 10% export rebate for fresh apples and pears.

✓ - January, 1981, interest free loans with repayment of 10 years for CAJ exporters. 24

✓ - February, 1981, export rebates of 10% for all products exported through Patagonian ports. (In April, 1981 this was reduced to 7%)

10-19-81 JAMES V. PARKER - AG Counselor

- June, 1981, CAJ was included in the "value added" products allowing CAJ exporters to exchange 10% of export earnings at the higher financial rate.
- August, 1981, prefinancing covering 60% of the FOB export value of CAJ. Repayment of one year and 1% per annum.

In 1977, Michigan apple grower Jerry Sietsema visited Argentina and toured CAJ plants The plant manager told Mr. Sietsema:

a. The plant, Villa Regina, Argentina, is four years old and is tax free for 10 years (no property tax) because it is an apple juice plant.

b. There is a 10% direct subsidy on every dollar of product sold abroad.

TOTAL APPLE & PEAR JUICE IMPORTS

YEAR	TOTAL GALLONS	TOTAL 42 LB. BU.
1965	5,049,295	1,402,582
1966	3,080,203	855,612
1967	2,535,422	704,284
1968	10,908,738	3,030,205
1969	14,168,506	3,935,696
1970	16 834,532	4,678,759
1971	34,112,513	9,475,698
1972	25,632,907	7,120,252
1973	20,697,580	5,749,328
1974	21,495,957	5,986,623
1975	21,216,285	5,908,737
1976	34,387,544	9,576,259
1977	31,906,859	8,886,058
1978	44,394,152	12,363,770
1979	66,501,098	18,472,527
1980	43,520,365	12,089,324
1981	81,602,668	22,667,408
1982	103,758,056	30,880,374
1983*	63,560,371	18,973,245

*1983 JANUARY - MAY ONLY

FOR COMPARISON:

JANUARY - MAY 1982	28,448,347	8,492,044
JANUARY - MAY 1983	63,560,371	18,973,245

CONVERSION: 3.35 GAL/BU.

SOURCE: FAS-USDA, SINGLE STRENGTH EQUIVALENT GALLONS AND 42# BU RAW FRUIT EQUIVALENT

APPLE JUICE IMPORTS - S/S EQUIVALENT

COUNTRY	1976 GAL.	1976 42 LB. BU.	1977 GAL.	1977 42 LB. BU.	1978 GAL.	1978 42 LB. BU.	1979 GAL.	1979 42 LB. BU.	1980 GAL.	1980 42 LB. BU.	1981 GAL.	1981 42 LB. BU.	1982 GAL.	1982 42 LB. BU.
CANADA	151,718	42,253	1,225,533	341,311	945,974	263,454	449,434	124,843	441,977	122,771	1,418,218	393,949	1,323,249	395,000
AUSTRIA	126,373	35,195	370,029	103,053	276,938	77,127	1,063,959	295,544	1,594,972	443,047	870,080	241,689	3,776,689	1,127,370
BULGARIA	146,006	40,663	404,016	112,518	216,916	60,411								
FRANCE	619,275	172,468	1,885,776	525,189	1,111,901	309,664	5,678,321	1,577,311	4,160,047	1,155,568	1,491,651	461,014	1,978,382	581,607
GERMANY, WEST	28,126	7,833	73,849	20,567	14,453	4,025	920,711	255,753	2,775,862	771,072	6,700,798	1,861,303	14,268,396	4,259,223
ITALY	369,213	102,826	430,198	119,810	184,100	51,272	446,902	124,139	784,359	217,877	18,205	5,057	140,185	31,100
SPAIN	179,192	49,905	844,300	235,138	375,404	104,550	1,854,545	515,151	1,587,090	440,853	3,297,474	915,965	7,938,048	2,369,005
SWEDEN	2,420	674			7,049	1,963					71	20		
ARGENTINA	18,858,167	5,252,000	16,987,603	4,731,047	30,160,744	8,399,767	40,718,515	11,310,143	18,338,613	5,094,059	40,570,199	11,269,500	41,746,650	12,251,308
CHILE	57,751	16,084	30,510	8,497	778,261	216,746	733,630	203,786	459,228	127,563	2,152,007	597,780	1,623,372	484,589
MEXICO	158,757	44,214	344,235	95,869	394,566	109,887	822,758	228,543	1,351,808	375,502	2,422,317	672,866	3,024,918	902,961
AUSTRALIA	103,030	28,694	972,540	270,852	3,710	1,033			12,614	3,503	52,416	14,560	175,520	52,394
CHINA-MAINLAND	53	15	1,424	397	152	42	2,978	827	484	134				
ISRAEL	281,848	78,495	241,311	67,205	1,092,326	304,213	1,026,358	285,099	603,669	167,686	1,874,687	520,746	2,215,825	661,44[illegible]
JAPAN	27,255	7,591	314	87					306	85			234	70
NEW ZEALAND	1,418,532	395,061	801,531	223,226	697,312	194,201	361,942	100,539	501,902	139,417	2,612,241	725,623	2,933,904	875,792
SOUTH AFRICA	11,859,828	3,302,962	4,604,951	1,282,479	4,717,044	1,313,697	7,748,099	2,152,249	7,607,375	2,113,160	12,019,592	3,338,776	10,905,626	3,255,411
URUGUAY											654,066	181,685		
OTHER			2,638,739	732,983	3,417,302	949,251	4,742,500	1,317,361	3,330,059	925,016	5,448,646	1,513,512		3,362,224
TOTAL	34,387,544	9,576,933	31,856,859	8,870,228	44,394,152	12,361,303	66,568,652	18,491,288	43,550,365	12,097,313	81,602,668	22,667,400	103,758,056	30,800,374
TOTAL U.S. UTILIZATION FOR JUICE		26,407,000		30,171,000		35,229,000 ,		45,452,000		49,926,000		45,691,000		34,731,000 EST.
DOMESTIC & IMPORTED JUICE		35,933,933		39,041,228		47,590,303		63,943,288		62,023,313		68,358,409		65,611,374
% OF TOTAL UTILIZED COMING FROM IMPORTS		26%		22%		26%		29%		20%		33%		47.1%

SOURCE: USDA FOREIGN AGRICULTURAL SERVICE

TOTAL VALUE OF APPLE JUICE CONCENTRATE
U.S. DOLLARS

	1977	1978	1979	1980	1981	1982
CANADA	723,325	607,180	587,983	672,514	1,395,956	1,746,284
AUSTRIA	228,061	230,090	1,230,024	1,303,626	598,448	3,522,043
BULGARIA	248,189	140,533				
FRANCE	1,381,238	1,270,090	7,427,614	4,333,058	1,449,649	2,319,052
GERMANY, WEST	56,404	58,948	887,950	2,632,434	5,148,107	12,517,460
ITALY	339,665	236,047	445,157	553,208	50,487	142,119
SPAIN	643,579	500,439	1,876,755	1,410,151	2,911,983	7,417,324
SWEDEN		14,064			299	
ARGENTINA	14,281,117	24,473,080	39,617,474	17,319,472	27,225,955	36,250,807
CHILE	16,033	726,621	646,075	330,354	1,508,033	2,082,783
MEXICO	315,434	392,758	930,528	990,832	2,831,238	2,839,929
AUSTRALIA	784,284	23,605		10,813	39,387	138,634
CHINA, MAIN	2,271	784	3,825	1,910		
ISRAEL	135,896	866,229	822,262	741,819	1,460,772	2,145,825
JAPAN	821			1,900		
NEW ZEALAND	437,606	691,473	385,429	370,944	2,045,947	2,802,472
SOUTH AFRICA	3,561,717	4,306,305	7,489,938	6,380,812	9,112,657	9,148,190
URUGUAY					325,261	
OTHERS	1,726,038	2,451,633	4,588,245	3,011,753	4,122,958	9,261,205
TOTAL	24,890,678	36,989,879	66,939,259	40,065,600	60,227,958	92,334,127

SOURCE: USDA FOREIGN AGRICULTURAL SERVICE

The following is based on information received from the Foreign Agriculture Service, USDA:

1) About 12 concentrating plants are operating in Argentina this year, however, some are very small.

2) About 65% of the apples for processing go to concentated apple juice (CAJ).

3) The country of destination for concentrated apple juice (CAJ) remains unchanged i.e. mostly the U.S.

4) a. the current export rebate for CAJ is 10%, plus 10% for shipments going throug Patagonia port of Puerto Madryn. Reportedly, almost half of 1981 season shipments to advantage of shipping through Puerto Madryn.

b. CAJ is also eligible for an "additional" export rebate of 15% for the six mont period ending next April 21.

c. Since late August, CAJ exporters have also been eligible for pre-export financ covering up to 60% of the export value, with interest at one percent per annum and a repayment term of 120 days.

d. The 10/90% financial/commercial exchange rate mix is still in effect for CAJ exports. Currently, the financial rate has increased to almost 60% above the commerci rate level. (financial rate is 11,000 pesos per US$, comerical rate is 6,942 pesos per US$), thus increasing the export value edge over non-value added products such as apples by six percent.

e. Given the current situation, all plants which operated this year are expected in operation for 1982. Sources expected a normal to good year.

f. Sudden pesos devaluations this year occured as follows: Feb 2-10%, April 1-3 June 1-30%, July 22-30%; (the two-tier exchange rate system was applied only to the financial rate with a few exceptions, export transactions utilize the commercial rate) (If loans are available for CAJ shippers because of the devalued peso $180 U.S. per me

STATEMENT OF GUY DONALDSON, APPLE PRODUCER IN ADAMS COUNTY, PA., REPRESENTING PENNSYLVANIA FARMERS' ASSOCIATION

Mr. DONALDSON. Mr. Chairman, my name is Guy Donaldson, and I am an apple grower in Adams County, Pa. On behalf of the Pennsylvania Farmers' Association, the largest farm organization in Pennsylvania, representing over 23,000 farm families, I would like to thank the members of this subcommittee for the opportunity to comment on Senate bill 453.

On September 2 of this year our association submitted a written statement to this subcommittee outlining the seriousness of subsidized concentrated applejuice importation and its adverse effect on the U.S. apple producers.

Argentina and other countries subsidizing applejuice exports to the United States presently enjoy most-favored-nation status under our trade laws. The receipt of these foreign subsidies allows foreign exporters to offer applejuice to American markets at a price which significantly undercuts even that price which an American apple producer must beat for his apples to recoup his cost of production.

It is impossible for American apple producers attempting to market their apples for juice to compete with subsidized exporters of applejuice into the United States. Senate bill 453 would give our Nation's apple producers a fair chance to be competitive with those foreign producers who, as a result of governmental subsidies, have been exempt from having to fairly compete in American applejuice markets. And I urge this subcommittee to favorably report Senate bill 453.

Thank you, sir.

Senator DANFORTH. Thank you, sir.

[Mr. Guy Donaldson's prepared statement and Pennsylvania Farmers' Association statement of September 2 follow:]

PENNSYLVANIA
FARMERS'
ASSOCIATION

Statement Before the
SENATE SUBCOMMITTEE ON INTERNATIONAL TRADE
on S. 453
Submitted by the
Pennsylvania Farmers' Association
Guy Donaldson
P.O. Box 736
Camp Hill, PA 17011
October 20, 1983

510 S. 31st STREET – P.O. BOX 736 – CAMP HILL, PA 17011 ● PHONE (717) 761-2740

My name is Guy Donaldson. I am an apple producer in Adams County, Pennsylvania. On behalf of the Pennsylvania Farmers' Association, the largest farm organization in Pennsylvania representing 23,431 farm families, I would like to thank the members of this Subcommittee for the opportunity to comment on Senate Bill 453.

On September 2nd of this year, our association submitted a written statement to this Subcommittee outlining the seriousness of subsidized concentrated apple juice importation and its adverse effect on United State apple producers. The information contained in our statement clearly shows that the present tariff and trade laws unreasonably and unfairly give subsidized foreign producers and exporters of imported concentrated apple juice a distinct marketing advantage over American apple producers attempting to sell their apples in the United States for apple juice.

Argentina and other countries subsidizing apple juice exports to the United States presently enjoy "most favored nation" status under our trade laws. The receipt of these foreign subsidies allows foreign exporters to offer apple juice to American markets at a price which significantly undercuts even that price which an American apple producer must offer for his apples to recoup his cost of production.

The present remedy afforded under our trade laws - the assessment of countervailing duties - provides American producers little relief from subsidized exports of apple juice by "most favored nation" countries. The condition of "economic injury". which is necessary for the imposition of countervailing duties, applies only to the American commercial apple juice marketing industry. Economic injury to apple producers - the real sufferers of subsidized apple juice imports - is insufficient to impose countervailing duties.

It is impossible for American apple producers attempting to market their apples for juice to compete with subsidized exporters of apple juice into the United States. Senate Bill 453 would give our nation's apple producers a fair chance to be competitive with those foreign producers who, as a result of governmental subsidies, have been exempt from having to fairly compete in American apple juice markets. I urge this Subcommittee to favorably report S. 453.

If you have any questions, I would be happy to answer them at this time.

Senator DANFORTH. Mr. Sietsema.

STATEMENT OF JERRY SIETSEMA, AMERICAN AGRICULTURAL MARKETING ASSOCIATION, APPLE DIVISION, LANSING, MICH.

Mr. SIETSEMA. My name is Jerry Sietsema. I grow apples in Grand Rapids, Mich. I am a member of the board of the Michigan Processing Apple Growers Association and chairman of the American Agricultural Marketing Association, Processing Apple Committee. I am a past president of the International Dwarf Fruit Tree Association and have had the privilege of traveling extensively to countries where applejuice concentrate is produced for shipment to the United States. I have visited with apple producers and processor of applejuice concentrate in several of these countries and have found, to a large extent, the production of apples and the manufacture and export of concentrated applejuice is heavily subsidized by foreign governments.

These subsidies have allowed foreign countries to sell concentrated applejuice into the United States at prices that are generally cheaper than U.S. apple-price equivalents. As a producer, I feel this is unfair competition.

We ask your subcommittee to report out Senate bill 453 to allow for a small tenth-of-a-cent-per-gallon tariff to be placed on all concentrated applejuice entering the United States. The effect of the tariff will be small, but it will allow U.S. apple producers a mechanism through which they may in the future seek countervailing duties against subsidized concentrate from countries who are not subscribers to the GATT Subsidies Code.

We do not seek to restrict the flow of concentrated applejuice into the United States. With this small tariff in place, the apple industry will then be able to apply for a countervailing duty through the U.S. Commerce Department without the prohibitive cost and time-consuming process of proving injury to our industry.

Within the past 10 years shipments of imported concentrated applejuice have more than doubled, and during our 1982 record crop apple year, imported concentrate occupied 47 percent of the U.S. applejuice market and caused general price depression in the U.S. applejuice industry.

Applejuice consumption is on the increase in this country, but the utilization of U.S. apples in this applejuice actually decreased in the 1982 record crop year.

The Coca-Cola Foods Division, for example, marketed under the Minute Maid label, who maintains a leadership position in the U.S. frozen applejuice concentrate market, uses very little if any U.S. applejuice in their products.

Today, in Paw Paw, Mich., where they have a large concentrate plant, the plant is idle. There are plenty of people in Michigan who would like to work in this plant but do not have the opportunity.

Michigan apple growers' apples are going to rot this fall while the consumer utilizes the juice produced in another country.

Frankly, Mr. Chairman, the people in these exporting countries do not understand how we can allow a practice such as this to continue.

Thank you for the opportunity to appear before the subcommittee. If there are any questions, I will try to answer them.

Senator DANFORTH. Thank you, sir.

[Mr. Jerry Sietsema's prepared statement follows:]

STATEMENT OF JERRY SIETSEMA, MICHIGAN APPLE GROWER TO THE SUBCOMMITTEE ON INTERNATIONAL TRADE OF THE SENATE FINANCE COMMITTEE REGARDING S. 453

October 21, 1983

MY NAME IS JERRY SIETSEMA. I GROW APPLES IN GRAND RAPIDS, MICHIGAN, AND I AM A MEMBER OF THE BOARD OF THE MICHIGAN PROCESSING APPLE GROWERS ASSOCIATION AND I AM CHAIRMAN OF THE AMERICAN AGRICULTURAL MARKETING ASSOCIATION PROCESSING APPLE COMMITTEE. I AM A PAST PRESIDENT OF THE INTERATIONAL DWARF FRUIT TREE ASSOCIATION. I HAVE TRAVELED EXTENSIVELY TO COUNTRIES WHERE APPLE JUICE CONCENTRATE IS PRODUCED FOR SHIPMENT TO THE UNITED STATES. I HAVE VISITED WITH APPLE PRODUCERS AND PROCESSORS OF APPLE JUICE CONCENTRATE IN SEVERAL OF THESE COUNTRIES AND HAVE FOUND, TO A LARGE EXTENT, THE PRODUCTION OF APPLES AND THE MANUFACTURE AND EXPORT OF CONCENTRATE APPLE JUICE IS SUBSIDIZED BY FOREIGN GOVERNMENTS.

THESE SUBSIDIES HAVE ALLOWED FOREIGN COUNTRIES TO SELL CONCENTRATED APPLE JUICE INTO THE UNITED STATES AT PRICES WHICH ARE GENERALLY CHEAPER THAN UNITED STATES JUICE APPLE PRICE EQUIVALENTS. AS A PRODUCER, I FEEL THIS IS UNFAIR COMPETITION. WE ASK YOUR SUBCOMMITTEE TO REPORT OUT SENATE BILL 453 TO ALLOW FOR A SMALL 1/10 CENT PER GALLON TARIFF TO BE PLACED ON ALL CONCENTRATED APPLE JUICE ENTERING THE UNITED STATES.

THE EFFECT OF THE TARIFF WILL BE SMALL, BUT WILL ALLOW UNITED STATES APPLE PRODUCERS A MECHANISM THROUGH WHICH THEY MAY, IN THE FUTURE, SEEK COUNTERVAILING DUTIES AGAINST SUBSIDIZED CONCENTRATE FROM COUNTRIES WHO ARE NOT SUBSCRIBERS TO THE GATT SUBSIDIES CODE.

WE DO NOT SEEK TO RESTRICT THE FLOW OF CONCENTRATED APPLE JUICE INTO THE UNITED STATES. WITH THIS SMALL TARIFF IN PLACE, THE APPLE INDUSTRY WILL THEN BE ABLE TO APPLY FOR A COUNTERVAILING DUTY THROUGH THE UNITED STATES COMMERCE DEPARTMENT WITHOUT THE PROHIBITIVE COST AND TIME CONSUMING PROCESS OF PROVING INJURY TO OUR INDUSTRY.

WITHIN THE PAST TEN YEARS, SHIPMENTS OF IMPORTED CONCENTRATED APPLE JUICE HAVE MORE THAN DOUBLED AND DURING OUR 1982 RECORD CROP APPLE YEAR, IMPORTED CONCENTRATE OCCUPIED 47% OF THE UNITED STATES JUICE APPLE INDUSTRY.

APPLE JUICE CONSUMPTION IS ON THE INCREASE IN THIS COUNTRY, BUT THE UTILIZATION OF UNITED STATES APPLES IN THIS APPLE JUICE ACTUALLY DECREASED IN THE 1982 RECORD CROP YEAR.

THE COCA COLA FOOD DIVISION, FOR EXAMPLE, (MARKETED UNDER THE MINUTE MAID LABEL) WHO MAINTAINS A LEADERSHIP POSITION IN THE UNITED STATES FROZEN APPLE JUICE CONCENTRATE MARKET, USES VERY LITTLE, IF ANY, UNITED STATES APPLE JUICE IN THEIR PRODUCTS.

IT HAS BEEN CHEAPER FOR THEM TO DO BUSINESS IN COUNTRIES SUCH AS ARGENTINA WHERE CHEAP SUBSIDIZED CONCENTRATED APPLE JUICE IS AVAILABLE.

THANK YOU FOR THE OPPORTUNITY TO SPEAK BEFORE THIS SUBCOMMITTEE. PLEASE FEEL FREE TO ASK ME QUESTIONS AT THIS TIME. PLEASE FEEL FREE TO ASK ME QUESTIONS AT THIS TIME.

Senator DANFORTH. Mr. Harris.

STATEMENT OF HERBERT E. HARRIS II, PARTNER, HARRIS, BERG, & CRESKOFF, WASHINGTON, D.C., REPRESENTING THE ASSOCIATION OF FOOD INDUSTRIES APPLEJUICE GROUP

Mr. HARRIS. Thank you, Mr. Chairman. We appreciate the opportunity of appearing before you.

We filed our statement, and I would like to make just one or two points.

This is an unusual if not an extraordinary bill. This tariff bill is not designed to raise revenue, certainly, and it's not designed to protect the industry. It is a tariff bill that is designed to circumvent existing law with regard to countervailing duty actions.

The domestic industry, or the growers here represented, feel that the imports are unfair and that they are injuring their industry. They do have access, as they say, to the countervailing duty statute; what they would prefer is to have access to it without having to demonstrate injury with respect to the imports.

Let me say that it would be an unfortunate approach, and indeed a unique approach, to breach the trade agreements, specifically the Kennedy round, to take an item off of the free list that has been on the free list since 1970 and to do that for the purpose of denying an injury test with regard to a specific product when all other products in that same category would in fact receive an injury test.

I think the statement of those that feel they are being injured here in the United States is an important one. They do have the statute and the remedy. But I think the notion that by legislation their particular product and industry should be exempted from showing injury with regard to those imports would be a very unfair precedent and an unfortunate precedent as far as trade laws are concerned.

Thank you, Mr. Chairman.

Senator DANFORTH. Thank you.

[Mr. Herbert E. Harris' prepared statement follows:]

October 20, 1983

STATEMENT
BEFORE THE SUBCOMMITTEE ON INTERNATIONAL TRADE COMMITTEE ON FINANCE, U.S. SENATE WITH RESPECT TO S.453 RELATING TO THE TARIFF TREATMENT OF APPLE AND PEAR JUICE

By Herbert E. Harris II,
Counsel to the Association of Food
Industries Apple Juice Group

Introduction

I am presenting the views of the Association of Food Industries Apple Juice Group, a non-profit association dedicated to the diverse interests of the international and the domestic apple juice trade.

We oppose S.453 for the following reasons:

- first, it would result in administrative costs far in excess of the revenue it would generate; and

- second, it creates the appearance of unfair manipulation of our trading concessions.

S.453 amends item 165.15 of the Tariff Schedules of the United States impose a duty of one tenth of one cent per gallon on apple and pear juice concentrate imports. The consequences of passing such a bill extend far beyond the mere imposition of a seemingly insignificant import duty. Rather, this legislation raises issues which impact greatly on U.S. relations with our trading partners.

The Purpose of S.453

S.453 is not designed to generate revenue. In the 1981-82 season, approximately 10,203,000 gallons of apple concentrate were imported into the United States. These importations entered free of duty. If the duty proposed by S.453 had been assessed, only $10,203 would have been collected. This minimal amount would most assuredly be exceeded by the costs of administering the tariff.

It is also important to recognize that a proposed duty of this magnitude would not deter all importers from bringing apple concentrate into the United States. Since S.453 would impose a duty too small to generate income or to deter importations from all sources, one would expect to find some other purpose behind that legislation.

Further, free of duty treatment has been accorded this item since 1971 pursuant to a concession made by the United States in the Kennedy Round. Unilateral legislative action, such as that proposed in S.453, would, of course, impair that concession and be contrary to obligations under the General Agreement on Tariffs and Trade.

Unfair Manipulation of Trading Concessions

Careful analysis shows that, if passed, S. 453 would have an adverse effect on our relations with important trading partners. Argentina, the country supplying over 40 percent of U.S. imports of apple juice concentrate, would perhaps bear the brunt of that impact.

The U.S. countervailing duty law provides that, where imports are the product of a country under the Agreement, or where they enter the United States free of duty, a countervailing duty may be imposed only if it is determined that those imports have caused material injury, or threaten to cause such injury, to the domestic industry. Argentina is not a "country under the Agreement". However, apple juice does enter the United States free of duty. Thus, a successful countervailing duty proceeding against Argentina, or any other similarily situated country, would have to be premised on an affirmative determination that the imports are injuring, or threatening to injure, the United States apple juice industry, as well as that bounties or grants actually are being received by the foreign producers.

S.453 would alter that intended scenario. By the imposition of a tariff, regardless how insignificant, countries such as Argentina would no longer be entitled to this injury test. In fact, these foreign producers would be an easy target for a domestic industry anxious to curtail its greatest competitor. We submit that the imposition of a prejudicial tariff, such as that proposed in S.453, is in fact an attempt to circumvent established law with regard to important U.S. trading partners.

The imposition of a countervailing duty on the imports of one or more countries would, in turn, have an effect on the ability to satisfy increasing U.S. demand for apple beverages. In the period from 1978 to 1982, U.S. per capita consumption of apple juice increased by approximately one-third. During the same period of time, imported apple juice (derived from concentrate) held a relatively constant share of the growing U.S. market. Without the availability of imported concentrates from key sources, the growing demand in the United States could not be met. Thus, a reduction in imports resulting from the imposition of a countervailing duty on a major foreign supplier would threaten the vitality and growth of the United States market for apple juice, particularly in times when domestic apples for processing are scarce.

Conclusion

It is clear that the duty proposed by S.453 is not designed to accomplish any of the generally accepted purposes of such a tariff. It would neither generate revenues which justify its administrative costs nor equally deter all foreign imported juice concentrates. Rather, it would: (1) with respect to a particular product, legislate discriminatory treatment; and (2) unilaterally and prejudicially alter U.S. government policy and commitments with respect to our relations with foreign trading partners.

Senator DANFORTH. Gentlemen, thank you very much.

The next bill is S. 1296. Mr. Wright, Mr. Krone, Mr. Von Bargen, and Mr. Haight.

The war of the roses. [Laughter.]

Mr. Wright.

STATEMENT OF EUGENE STEWART, COUNSEL FOR ROSES, INC., ACCOMPANIED BY JAMES KRONE, EXECUTIVE VICE PRESIDENT

Mr. STEWART. Mr. Chairman, my name is Eugene Stewart. I am counsel for Roses, Inc., and am accompanied by James Krone, the executive vice president.

Mr. C. Richard Wright of Sandy, Utah, had expected to be here, but an emergency in his greenhouse prevented him from being here.

Mr. Chairman, we are here because of the grave emergency that faces the domestic rose growers. There are 220 commercial rose growers in the United States. Three of them are in Missouri, at Greenwood, Kirkwood, and at Bertrand.

The average size of these family owned corporations, small business companies, is about 25 employees. The farm gate value of their production in 1982 was $102 million.

The problem of the fresh cut flower industry in the United States is that it is being inundated by imports which, without regard to species, are increasing their market penetration now by 4 percentage points a year. Today for carnations and chrysanthemums, the imports account for over 50 percent of apparent U.S. consumption.

Roses, in 1982, were at 17 percent, and thus far in 1983 are at 20 percent on average; but in the important selling seasons Colombia alone, in the principal markets of the eastern seaboard, has accounted for over 30 percent of the market.

Mr. Chairman, there is one significant reason why this rapid import penetration is occurring. We have had market research studies performed that have established that for all of these flowers the Colombian exporters are selling in the United States at less than fair value, by margins ranging from 20 percent to more than 100 percent of the export price.

In addition, each of the principal foreign governments whose producers export roses and other fresh cut flowers to the United States subsidize their production.

Between 1979 and 1982, domestic production dropped by 20 million rose blooms; imports increased by 60 million rose blooms. And apparent consumption rose by 40 million rose blooms.

We are being gradually driven out of our market, and the rose producers are attempting to act before they are destroyed, unlike the carnation and chrysanthemum producers who allowed things to get out of hand, and who have now essentially been driven out of business—over 300 growers in the last 6 years have shut down their greenhouses in those sectors.

The bill before you would change the U.S. rate of duty to exactly the same rate of duty imposed by the European Economic Community. That is the world's largest consumer of fresh cut flowers, including roses—the EEC. And they have the largest production, which is supplied virtually free of imports from Colombia and other low-wage and low-price suppliers.

There are two objections, two strong sources of objections to our bill. The administration says these people should use the administrative remedies, and were the Congress to enact a bill we would have to grant compensation.

As to the remedies: The rose growers have been twice to the International Trade Commission in escape clause proceedings without success—in 1977 and 1979. Four times we have been involved in countervailing duty proceedings against Colombia, in 1974, and in 1982. Both times subsidies were proved, the Government then entered into an agreement with the Colombian Government or exporters and suspended the investigation.

A countervailing duty investigation against the Netherlands was thrown out because of a finding of "no injury" by the ITC.

Only in the case of countervailing duties against Israel, after we took a poor decision from Commerce to the Court of International Trade did we get meaningful duties. Once those duties were imposed, the surge of imports from Israel leveled off, and that case illustrates how import-sensitive our product is.

The other source of objection is FTD. They claim essentially that this would be against the interests of consumers, that it would raise prices.

The amount of increase in duty at the average customs value of imports would amount to 3 cents per bloom during the months of November through May, and 2 cents per bloom during the months of June through October.

At the retail level, the members of FTD, on average, increased the retail price of roses in 1981 by 8 cents a bloom, and in 1982 by 13 cents a bloom, where there was no change in the tariff. In each of those years consumption increased. That establishes the fact that an increase in price, No. 1, does not necessarily mean a decline in consumption or reduced availability. But the small amount of increase in duty that would be involved would assist the growers in competing with imports at the wholesale level.

Thank you, Mr. Chairman.

Senator DANFORTH. Thank you, sir.

[Mr. Eugene Stewart's prepared statement follows:]

Statement on behalf of
Roses Incorporated in Support of S. 1296
before the
Subcommittee on International Trade
Committee on Finance, United States Senate
October 21, 1983.

1. Thank you for this opportunity to speak in support of S. 1296. The bill would adjust the U. S. tariff on imported fresh cut roses to rates of duty comparable to those imposed by the European Economic Community on its imports of roses.

2. Heading 06.03 of the EEC Common External Tariff provides for the following duties on fresh cut flowers, including roses, imported from outside the Community, as follows:

Heading Number	Description	Rate of Duty	
		Autonomous	Conventional
06.03	Cut flowers and flower buds of a kind suitable for bouquets or for ornamental purposes, fresh, dried, dyed, bleached, impregnated or otherwise prepared:		
	A. Fresh:*		
	I. From 1 June to 31 October	24%	24%
	II. From 1 November to 31 May	20%	17%
	B. Other:	20%	

*- The EEC has granted a reduced rate of duty of 15% on imports of orchids and anthurium, but on no other fresh cut flowers, under the Generalized System of Preferences to eligible developing countries. OJ 3-10-83, No. C263/183.

3. The principal growing season in Europe is June through October. During that season, the import duty is 24%, and on a c.i.f. basis (i.e., the duty applies to the airfreight bringing the flowers into Europe as well as the cost of the flowers). The EEC has kept that rate of duty unchanged through all trade agreement negotiations. During the

lesser growing season, when there is a reduction in supply, the trade agreement rate (i.e., the "conventional" rate) has been reduced by only 3-percentage points, to 17%. By comparison, the U.S. duty has been reduced from the "full" rate of 40% to 8%.

4. Europe has the largest production and the largest market for roses, and by far the highest tariff. The U.S. has production and consumption of roses less than half of Europe's, but the lowest tariff. Holland (66%), Colombia (10%), Israel (9%) and Italy (7%) accounted in 1981 for 92 percent of world exports of cut flowers, including roses. The most spectacular increase in exports of cut flowers was by Colombia, rising from $10.9 million in 1973 to $100 million in 1981. (Flowers Unlimited, Aalsmeer, the Netherlands, 1982, pp. 11, 13, 15). Colombia imposes both a tariff, 18%, and the requirement for an import license, on imports of fresh cut flowers, including roses. (Sec. 06.03.00.00, Notice No. 39, May 15, 1983, Tariffs of Customs Laws, Compilations of Customs Tariffs, Bogota, Colombia).

5. Holland devotes 7,200 acres to the production of roses, Colombia, 340 acres, and the United States, 620 acres. (Flowers Unlimited, op. cit. supra, at 17; private market research report, Study of Rose Production in Colombia (1983); and USDA, Floricultural Crops, March 1982, Tables 9, 10).

6. In 1981, the EEC countries accounted for $780.3 million of imports of fresh cut flowers, of which $550 million, or 70%, originated within the EEC, in Holland. The U.S. accounted for $135.3 million of

fresh cut flower imports, of which 72% came from Colombia. (Flowers Unlimited, op. cit. supra, at 17).

7. S. 1296 is designed to align the tariff on roses imported into the United States with the EEC tariff on fresh cut flowers, except that the 24% rate of duty would apply to the period November through May which is the principal U.S. growing/marketing season (in contrast with Europe's of June through October). The 17% rate of duty would apply to the less growing/marketing season of June through October. Also, unlike Europe, the basis of the U.S. duty is the FAS origin value. (In other words, the U.S. does not collect a duty on the inbound transportation cost, unlike Europe).

8. The justification for the enactment of S. 1296 is as follows:

(a) Imports are rapidly capturing the lion's share of the U.S. market, and driving domestic growers out of their own market:

Share of the U.S. Market Captured by
Imports of Carnations, Chrysanthemums and Roses
(In % of Apparent U.S. Consumption)

	Carnations		Chrysanthemums		
Year	Miniature	Standard	Pompon	Standard	Roses
1976	na	27%	33%	7%	1.3%
1977	na	33%	37%	13%	2.2%
1978	na	41%	41%	11%	3.4%
1979	na	44%	48%	14%	6.8%
1980	48.7%	50.3%	52.4%	19.3%	9.1%
1981	47.3%	58.7%	54.8%	19.9%	13.0%
1982	55.1%	60.0%	58.3%	22.3%	16.7%

Sources: U. S. International Trade Commission, Publication 841, Nov. 1981, Table 3; U.S. Dept. of Agriculture, Floriculture Crops, March 1982; Marketing California Ornamental Crops, 1981, June 30, 1982; Ornamental Crops, National Marketing Trends, weekly issues, 1982, 1983; U.S. Dept. of Commerce, IM145X.

(b) To illustrate the consequences for the domestic growers from these awesome losses of market share in the United States, consider the following decline in the number of growers and greenhouse area under cultivation:

Number of U.S. Growers, and Greenhouse Area
in the Production of Carnations, Chrysanthemums and Roses
(Number of Producers; Area in 000's sq. ft.)

Year	Carnations				Chrysanthemums				Roses			
	Miniature		Standard		Pompon		Standard		Hybrid Tea		Sweetheart	
	Area	Growers	Area	Growers	Area	Growers	Area	Growers	Area	Growers	Area	Growers
1976	2,706	221	28,768	539	37,412	1,126	22,441	1,029	23,420	230	5,240	192
1977	3,143	217	27,549	503	37,389	1,154	19,327	990	22,482	237	5,078	198
1978	3,118	208	25,276	461	39,966	1,122	23,442	962	22,349	221	5,234	180
1979	3,586	200	24,555	418	36,200	999	17,268	829	23,387	238	5,745	177
1980	4,184	193	20,800	364	31,587	968	14,768	806	23,595	234	5,477	186
1981	4,323	177	20,249	331	30,480	894	14,561	724	22,921	222	5,071	177
1982	4,756	na	19,647	na	30,527	na	13,046	na	22,111	na	4,893	na
Change 1976/1981-2:												
	+2,050	-44	-9,121	-208	-6,885	-232	-9,395	-305	-1,309	-8	-347	-15

Source: U.S. Dept. of Agriculture, Floriculture Crops, annual issues. All data for 1982 are "intended" per source, and 1976 and 1977 roses area are "intended" per source since actual data are not available in source.

(c) Efforts to stem the rapidly rising flood of imports through administrative remedies have been unsuccessful:

(i) Escape clause actions under Sec. 201 of the Trade Act of 1974 on all fresh cut flowers in 1977, and on roses in 1979, were unsuccessful. In each case, after the ITC's negative finding, there was a further surge in imports.

(ii) Countervailing duty actions have been brought against all fresh cut flowers from Colombia in 1974 and 1982. The first was discontinued when a U.S. Government to Government agreement with Colombia resulted in a diversion of the 10.2% subsidy to an organization to help Colombian exporters instead of directly to the exporters. The second was suspended on the basis of a U.S. government agreement with the principal exporters wherein the latter agreed to renounce the 5% subsidy found to exist. The U.S. government failed to investigate an additional subsidy whose magnitude is at least as great as the amount renounced. Notably, the Colombian exporters are seeking to channel the 5% subsidy into a flower promotion program which U.S. growers believe will in fact benefit the Colombians as much indirectly as the direct receipt of the subsidies. After each case was discontinued by the U.S. government, the surge in imports from Colombia continued.

(iii) Countervailing duty action against roses from the Netherlands in 1980 was terminated by a negative finding of injury at the preliminary stage. Subsequently, the Holland growers announced a program to boost their exports to the United States, for all fresh cut flowers to $50 million from $20 million. Rose exports have grown proportionately, rising from 1.6 million blooms in 1980 to 5.2 million in 1982. Through August of 1983, a total of 4.9 million blooms have been imported from the Netherlands, projecting total imports for 1983 at 7.3 million blooms.

(iv) Countervailing duty action against roses from Israel in 1980 resulted in an inconsequential administrative determination of net subsidies of 1.5%. We appealed the case to the Court of International Trade. The Court remanded the case to the Department of Commerce for a redetermination. Commerce reinvestigated and found that the net subsidy was 11.5%, and it has been assessing duties at this rate.

Other issues, however, are still pending before the Court. Imports of roses from Israel, which had zoomed from 286,000 blooms in 1976 to 5.6 million in 1979 with the benefit of the subsidies, increased further to 6.2 million in 1981 before the redetermined net subsidy and off-setting countervailing duty were implemented. In 1982 imports from Israel decreased to 5.3 million blooms, and through August 1983 are running at a 4.9 million bloom annual rate. This case shows the extreme sensitivity of import volume to unfair price competition. Without correction, imports increase rapidly; when a corrective is applied, the surge is taken out of the imports. Unfortunately, this one case is the only instance of affirmative action by the U.S. Government to correct unfair competition from imported roses which are either subsidized or dumped, or both.

(iv) The principal source of roses and other fresh other fresh cut flowers imported into the United States is Colombia, and they are marketed by the Colombian exporters by aggressive pricing in the U.S. market based on severe margins of dumping. Market research performed for us, and official U.S. import statistics of average unit selling prices of Colombian flowers to the United States shows that in 1983 the following dumping margins are being used by the Colombian exporters:

Roses: ranging from a low of 16.8% to 104.1%, 166.9% and 247.0% of the export price;

Carnations: - 60%;

Chrysanthemums: pompon, 20.5%;
standard, 86.0%.

(v) Efforts to secure corrective action to neutralize unfair price discrimination (dumping) by the U. S. Government have been unavailing. In June 1981, Roses Incorporated filed an antidumping duty petition on roses from Colombia. The Commerce Department dismissed the petition, without investigation. This action was taken to the Court of International Trade which in April 1982 ruled that the Department's action in dismissing the case without investigation was unlawful. The Government appealed, and in April 1983, the appellate court ruled (1) that the Department had used unlawful procedures in dismissing the petition, but that (2) the Department had virtually unlimited discretion to dismiss petition without investigation. During the two years in which the Government agency and the courts had the case, imports of roses from Colombia increased by 47 million blooms at an annual rate. On September 30, 1983 we filed a new antidumping duty petition on roses from Colombia. It will be nearly a year from now before there is a final determination. By that time, imports from Colombia will have captured more than 20% of the American market, and more domestic rose growers will have gone out of business.

(vi) Since, after extended efforts to secure relief through the administrative remedies provided by the Congress without success the domestic rose growers are being steadily forced out of business by unfair competition from constantly increasing imports, the rose growers have the right to request the Congress to redress their grievances by the enactment of S. 1296.

9. The objections voiced by the Administration and by FTD to the enactment of S. 1296 are without merit:

(a) The Administration offers the shop-worn, boiler-plate objection that enactment of the bill would violate GATT and require the U.S. to compensate the affected countries. As to that we remind the Committee of its own statement on entitlement of a country to compensation following U.S. government action to increase tariffs:

> "It is not intended that this section be interpreted as requiring the payment of compensation whenever import relief has been granted pursuant to section 203 or requiring that a foreign country be precluded from compensation if it has taken action pursuant to Article XIX [the escape clause of GATT] without extending compensatory concessions to the United States. The GATT provides that countries seeking compensation must show that they have been adversely affected, and it is expected that no action would be taken under this section until such a showing has been made." [S. Rep. 93-1298, p. 10].

Further, it is not automatic that compensation when and if granted would harm other U.S. domestic interests. The Trade Act of 1974 requires that the effect upon domestic industry, workers and communities of particular tariff concessions selected for consideration must be evaluated by the I.T.C. and an inter-agency panel under the Office of the Trade Representative. [Sections 131, 332, 133, and 134, Trade Act of 1974]. Thus, the Executive Branch has the opportunity, and obligation, to select tariff items for compensation which will not involve probable economic injury to domestic interests.

Moreover, this Committee should expect the Executive in any exercise of consultation with trading parties claiming to be adversely affected by the enactment of S. 1296 to "put on the table" the trade benefits unilaterally extended to such countries through the action of the Congress in suspending duty treatment, and placing dutiable items on the free list, as it does perenially in so-called "non-controversial" tariff legislation.

(b) FTD offers the equally shop-worn and invalid contention that the bill would harm the interest of consumers. We offer the following in rebuttal of such contentions:

(i) Retail prices of roses averaged $1.84 per stem for the period ended July 1982, an increase of 13% versus the price of $1.63 for the comparable period of 1981. (The Floral Report, National Retail Floral Index, Special Consumer Study, Flowers, Plants, Accessory Items, Sales of roses as roses for the period ended July 1982).

(ii) In 1982, apparent consumption of roses increased by 7.2% compared with 1981.

(iii) There was no increase in the tariff rate of duty applicable to imported roses in 1982.

(iv) Therefore, the 21¢ per bloom increase in the retail price of roses in 1982 did not adversely affect the retail sales volume of roses, which increased by 7.2%.

(v) S. 1296 would increase the tariff on imported roses by 16%-points during the period November through May, and by 9%-points the rest of the year. The average unit customs value of roses imported in 1982 was 20.0¢ per bloom. Therefore the increase in duty during November through May would 3.2¢ per bloom, and the balance of the year, 1.8¢ per bloom. Obviously, the effect of this amount of duty increase would be negligible, as shown by the fact that the 21¢ per bloom increase in the retail price of roses in 1982 did not curtail sales of roses, which increased by 7.2%.

10. Conclusion. The Subcommittee has compelling reason to approve S. 1296. The arguments against its approval are without merit.

Respectfully submitted,

Roses Incorporated
by:
Eugene L Stewart
Eugene L. Stewart
Special Counsel

James C. Krone
Executive Vice President

October 21, 1983.

Senator DANFORTH. Mr. Von Bargen and Mr. Haight.

STATEMENT OF EDWARD VON BARGEN, PRESIDENT, FLORISTS' TRANSWORLD DELIVERY ASSOCIATION, SOUTHFIELD, MICH.

Mr. VON BARGEN. Good morning, Mr. Chairman and members of the committee.

For the record, I am the owner and operator of Entenmann's Florist in Jersey City, N.J. With me today is Mr. Gordon Smith of the Hill & Knowlton firm, our Washington representative.

I serve as president of Florists' Transworld Delivery Association, on whose behalf I appear today. FTD is the Nation's oldest and largest intercity florist delivery service. It is a member-owned cooperative whose 20,000 U.S. members are located in every State and virtually every city and town in the United States. The majority of our owners are still family owned small businesses.

In opposition to S. 1296, a bill to increase the tariff on imports of cut roses, I wish to make the following points:

Since 1979, Roses, Inc., an association of domestic rose growers representing about 80 percent of the domestic producers, has sought trade restrictions in a variety of forums, failing in all important particulars, including an escape clause action. In S. 1296 they are asking Congress to do what the duly authorized agencies of government refused to do.

The purpose and effect of this bill can only be to drastically limit supplies and increase prices of a special purpose flower that is utterly essential to our retailers and to the consumer.

FTD has consistently opposed special interest tariff legislation on cut roses, as in S. 2466 in the 97th Congress, on the demonstrable grounds that it would work a substantial hardship in terms of price and availability on retailers and the consumer of roses.

Economic indicators point to an unprecedented growth in our industry in the next decade. With a constantly expanding market, there is no need for protective devices which can only result in eventually pricing roses beyond the consumers' willingness, and in fact beyond their ability, to purchase them.

FTD is spending much more than $12 million this year to promote the sale of cut flowers and plants at the consumer level. The domestic rose industry, like any other product groups in this area, benefit from this retailer-supported program. All other consumer promotion in this industry put together is less than one-third the size and scope of the FTD program. Roses, Inc., does little or no direct consumer advertising, to our knowledge.

In 1981 the Congress approved an industry promotional program to be carried out under the Department of Agriculture's supervision. This program, called Floraboard, will be put to an industry referendum shortly. It would be inconsistent for Congress to decrease supplies of roses by hiking tariffs, while at the same time giving its blessing to measures likely to increase consumption of roses and other cut flowers and plants.

The two-tiered tariff approach in S. 1296 would apply the 24-percent rate of duty to imported roses at times when demand and prices—November through June—are already at their very peak in the

U.S. market, thus heightening even further the adverse impact on the consumer.

The current tariff of 8 percent on cut flowers is a "bound" duty, arrived at in multilateral trade negotiations. As stated by the USDA in House hearings on this bill last year and this year, any unilateral action by the United States to increase the duty on roses would mean the United States would owe compensation to the countries affected.

S. 1296 seeks to exact reciprocity on a commodity basis by tying the U.S. rate to the Common Market duty, a concept not generally accepted in international trade law.

The bill would put Congress back into the business of legislating specific commodity rates, a practice it gave up many years ago, and which the International Trade Commission, formerly the Tariff Commission, was set up to avoid.

Sir, on behalf of the 20,000 FTD members, I thank you for this opportunity and the interest you have in this matter.

Senator **Danforth**. What would be the effect of this on a dozen roses, retail?

Mr. **Stewart**. The effect on the landed cost of roses coming into the United States in a 6-month period November through May would be an additional 3 cents import duty. The average landed cost in 1982 was 20 cents per bloom. Adding 3 cents to that would bring it up to 23 cents. The wholesaler usually marks up his cost by about 30 percent, so that he would be selling his flowers to the retailer, let us say, at about 40 cents a bloom.

The retailer then takes a 300-percent markup on the rose. A rose that the wholesaler sells to him for 40 cents, he will sell for not less than $1.20 a bloom. There is a very substantial margin added by the retailer.

And the significant thing, Senator, is that the wholesalers who sell both domestic and imported roses, and those that compete with each other, do not apportion their price by the amount of duty that is paid. The imported roses undersell the domestic roses, and the wholesalers sell both domestic and imported roses to the retailers at the same price.

There would be no effect on an increase in duty at the retail level; but because it would make us more competitive at the wholesale level, we would have a better chance to get wholesalers to purchase domestic rather than imported roses.

Senator **Danforth**. Did you say it would have a zero effect on the retail price of roses?

Mr. **Stewart**. Correct, sir.

Senator **Danforth**. Do you agree with that, Mr. Von Bargen?

Mr. **Von Bargen**. No; I don't. We find, in preliminary investigations, after the series of markups taken by the wholesaler and the retailer it could result in up to a 25-percent increase in the retail price, especially at peak demand times during the holidays.

Senator **Danforth**. Gentlemen, thank you very much.

[The prepared statement of Edward Von Bargen follows:]

October 21, 1983

STATEMENT OF

Edward Von Bargen, President
Florists' Transworld Delivery Association
Southfield, Michigan

before the
Subcommittee on International Trade
Senate Finance Committee

Mr. Chairman and Members of the Committee:

For the record, I am the owner and operator of Entenmann's Florist, Jersey City, New Jersey. I am president of Florists' Transworld Delivery, on whose behalf I appear today. FTD is the nation's oldest and largest intercity florist delivery service. It is a member-owned cooperative, whose 20,000 U.S. members are located in every state and virtually every city and town in the U.S. The majority of our members are still family-owned small businesses.

In opposition to S.1296, a bill to increase the tariff on imports of cut roses, I wish to make the following points:

1. Since 1979, Roses, Inc., an association of domestic rose growers representing about 80 percent of domestic producers, has sought trade restrictions in a variety of forums, failing in all important particulars including an escape clause action. In S.1296, they are asking Congress to do what the duly authorized agencies of government refused to do.
2. The purpose and effect of this bill can only be to drastically limit supplies and increase prices of a special purpose flower that is utterly essential to our retailers and to the consumer.

3. FTD has consistently opposed special interest tariff legislation on cut roses (S.2466 in the 97th Congress) on the demonstrable grounds that it would work a substantial hardship in terms of price and availability on retailers and consumers of roses.
4. Economic indicators point to an unprecedented growth in our industry in the next decade. With a constantly expanding market, there is no need for protective devices which can only result in eventually pricing roses beyond the consumer's willingness, or even ability, to purchase them.
5. FTD is spending more than $12 million this year to promote the sale of cut flowers and plants at the consumer level. The domestic rose industry, like other product groups, benefits from this retailer-supported program. All other consumer promotion in this industry put together is less than one-third the size and scope of the FTD program. Roses, Inc. does little or no direct consumer advertising to our knowledge.

6. In 1981 Congress approved an industry promotional program to be carried out under Department of Agriculture supervision. This program, called Floraboard, will be put to an industry referendum shortly. It would be inconsistent for Congress to decrease supplies of roses by hiking tariffs, while at the same time giving its blessing to measures likely to increase consumption of roses (and other cut flowers and plants).
7. The two-tiered tariff approach in S.1296 would apply the 24 percent rate of duty to imported roses at times when demand and prices (November-June) are already at their very peak in the U.S. market, thus heightening even further the adverse impact on the consumer.
8. The current tariff of eight percent on cut flowers is a "bound" duty, arrived at in multilateral trade negotiations. As stated by the USDA in House hearings on this bill last year and this year, any unilateral action by the U.S. to increase the duty (on roses) would mean the U.S. would owe compensation to other countries affected.
9. S.1296 seeks to exact reciprocity on a commodity basis (by tying the U.S. rate to the Common Market duty), a concept not generally accepted in international trade law.

10. The bill would put Congress back into the business of legislating specific commodity rates; a practice it gave up many years ago, and which the Tariff (International Trade) Commission was set up to avoid.

On behalf of 20,000 FTD members, I thank you for your interest in this matter.

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Senator DANFORTH. The next bill is S. 1411. Mr. Methenitis.

STATEMENT OF WILLIAM A. METHENITIS, STRASBURGER & PRICE, DALLAS, TEX., REPRESENTING THE DALLAS/FORT WORTH REGIONAL AIRPORT

Mr. MENTHENITIS. Mr. Chairman, I would like to thank you for the opportunity to express the support of a number of Texas organizations for S. 1411, which has been passed by the House as section 211(b) of H.R. 3398.

With me is Mr. Steve Creskoff, who is with the National Association of Foreign Trade Zones, which has also filed a statement in support of S. 1411.

S. 1411 does not alter the existing state of the law. It is merely a restatement of the current status of the law. It tracks the recent Supreme Court decision in the *Xerox* case right down the line.

Senator Bentsen has introduced and Senator Tower has copsonsored this bill to remedy a particular problem that exists in the State of Texas. While a number of other States have taken local measures to express the Federal preemption of ad valorem tax in foreign trade zones, the Texas constitution prohibits that kind of statute from being enacted in Texas. This has resulted in businesses coming to Texas and looking at foreign trade zones and inquiring what the ad valorem tax status is; and zone operators being required to respond, "Well, it's covered. Talk to our lawyers; they will tell you all about the good case law we've got." Businesses aren't particularly interested in the "good case law we've got," they want some solid answers.

The current status in the State of Texas is that there has not been an assessment of tax; its just that this current unsettled nature, because of being required to rely on case law, has discouraged businesses from going to Texas foreign trade zones.

Under the Texas system, if an ad valorem tax was assessed, the company would be required to pay that tax and then go to court and file suit to obtain a refund. This essentially forces a business to litigate to secure an ad valorem tax exemption to which it is already entitled.

The enactment of S. 1411 would eliminate the possibility that businesses looking to move into Texas foreign trade zones would have to buy a lawsuit to begin operations. By merely clarifying the existing state of the law, S. 1411 can provide the businesses the certainty they need to locate in a Texas foreign trade zone.

The bill simply would present a clear expression of the law which could be easily understood by both businesses and the multitude of local Texas taxing authorities.

Thank you.

Senator DANFORTH. Thank you.

[The prepared statement of William Methenitis follows:]

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STATEMENT OF WILLIAM M. METHENITIS
ATTORNEY, STRASBURGER & PRICE, DALLAS, TEXAS
on behalf of the
DALLAS/FORT WORTH REGIONAL AIRPORT BOARD

IN SUPPORT OF S. 1411
PASSED BY THE HOUSE OF REPRESENTATIVES AS
SECTION 211(b) of H.R. 3398

before the
SUBCOMMITTEE ON INTERNATIONAL TRADE
SENATE COMMITTEE ON FINANCE

September 9, 1983

STATEMENT OF WILLIAM M. METHENITIS
ON BEHALF OF THE DALLAS/FORT WORTH REGIONAL AIRPORT BOARD IN SUPPORT OF S. 1411

Businesses are being discouraged from locating in Texas foreign trade zones because of a Texas Constitutional quirk that leaves uncertain the possibility that their inventories, while in foreign commerce, would be subject to ad valorem tax assessment by local authorities. The Dallas/Fort Worth Regional Airport Board, the grantee of Foreign Trade Zone No. 39, believes S. 1411 will remedy the existing problem and encourage the development of foreign trade zones.

Source of the Problem. Congress has preempted state and local taxation of foreign-origin goods and domestic-origin goods destined for export that are located in foreign trade zones. Acknowledging this Federal preemption, most state and local authorities have taken action to prohibit local authorities from assessing ad valorem tax on foreign trade zone inventory. Texas authorities have been unable to take such measures, however, because the Texas Constitution prohibits the exemption of items not specifically listed in the Texas Constitution.

Despite the Texas Constitutional prohibition of formally stating the exempt status of foreign trade zone inventory, Texas taxing authorities have generally recognized the Federal preemption. The taxing authorities with jurisdiction over the Dallas/Fort Worth Foreign Trade Zone, for example, have never attempted to assess foreign trade zone inventory. Actual taxation is not the problem. It is the threat of taxation, which would require a business to litigate in order to secure the ad valorem tax exemption to which it is entitled, that is inhibiting the business development of Texas foreign trade zones. Businesses considering locating in Texas foreign trade zones must consider the contingent expense of "buying a lawsuit," a cost that is neither warranted nor necessary. This was certainly not the intent of Congress in establishing foreign trade zones.

Current Status of the Law. S. 1411 is a clarification of existing law, a point made clear in light of the recent Supreme Court decision in Xerox Corporation v. County of Harris, Texas, ___ U.S. ___, 74 L.Ed.2d 323, 103 S.Ct. ____ (1982), which holds that ad valorem taxation of inventory in a bonded warehouse (a statutory predecessor to a foreign trade zone) has been Federally preempted. Despite this strong statement of preemption by the Supreme Court, the problem still exists. Under the Texas system, if a local authority decided to assess the foreign trade zone inventory of a local business that business would be required to pay the assessment and sue the taxing authority for refund.

The Solution. The enactment of S. 1411 would solve the existing problem by simply clarifying the existing Federal preemption of ad valorem taxation of foreign trade zone inventory. This clarification would provide businesses with the certainty they need in order to make the decision to locate in a foreign trade zone.

Benefits to the National Economy. Foreign trade zones have been created by Congress to increase export/re-export trade and import substitution, the manufacturing or assembling of goods in U.S. foreign trade zones that would otherwise be done in foreign countries. By enhancing the development of foreign trade zones, S. 1411 will create jobs, many of which are currently lost to foreign workers. The national economy will directly benefit from these jobs, and from the capital investment created by the expansion of foreign trade zones.

National Uniformity in International Commerce. National uniformity in the area of foreign commerce has consistently been a goal of Congress. Achieving the desired national uniformity in foreign commerce has not been possible at the state or local levels because of the Texas Constitutional provisions dealing with ad valorem taxation. By clarifying the existing preemption S. 1411 provides the desired national uniformity, and encourages the development of foreign trade zones.

Conclusion. The Dallas/Fort Worth Regional Airport Board unconditionally supports the passage of S. 1411. We believe that S. 1411, by merely clarifying the existing Federal preemption of ad valorem taxation of foreign trade zone inventory, will enhance the development of all foreign trade zones and fulfill the Congressional intent in establishing foreign trade zones of creating new jobs and encouraging capital investment.

William M. Methenitis
William M. Methenitis

Senator **Danforth**. Does the State of Texas support this?

Mr. **Methenitis**. Yes; they do.

Senator **Danforth**. Thank you very much.

Now we have S. 1642. Mr. Thomas.

STATEMENT OF ALTON F. THOMAS, MARKETING DIRECTOR, W. R. WEAVER CO., EL PASO, TEX.

Mr. **Thomas**. Good morning, Mr. Chairman and members of the committee.

My name is Alton F. Thomas, marketing director of the W. R. Weaver Co. in El Paso, Tex. I am accompanied today by Susan Esserman, our legal counsel here in Washington.

We are manufacturers of telescopic rifle scopes and accessories, which are virtually 100 percent American made. We have been in business since 1933 and employ approximately 400 people in our El Paso location.

I am speaking for our company and its labor union in opposition to S. 1642, which would eliminate the 20-percent import duty on all imported rifle scopes valued at $50 or less.

As we interpret this bill, this would include virtually every Japanese-made scope currently imported into the United States.

I am also authorized to speak for the other three major domestic manufacturers of rifle scopes. They are Leopold & Stevens, located in Beaverton, Oreg.; Redfield, located in Denver, Colo., a subsidiary of the Brown Group; and Burris, located in Greeley, Colo. They all feel that the passage of this bill would be injurious to the American rifle scope industry.

Even with the existing 20-percent duty on imported rifle scopes in place, the Japanese have been able to capture an approximate 40-percent share of the U.S. market. This they have been able to accomplish because of the nature of their industry and the significantly lower labor rates in Japan. This enables them to sell comparable products at prices up to 25 percent less than ours.

Our labor rates are modest by U.S. standards, but since rifle scopes are labor intensive, we are at a distinct disadvantage.

Without the 20-percent duty, the Japanese would have an almost insurmountable advantage over the U.S. manufacturers.

Since the W. R. Weaver Co. competes more directly on a price basis than the other U.S. manufacturers, we would be more immediately vulnerable to a reduction in this duty. In fact, it is doubtful that our company could survive.

Without the W. R. Weaver Co. to compete with, the Japanese could then go after the other U.S. manufacturers who sell higher priced products and eventually eliminate all U.S. competition, as they have done in so many other industries.

Weaver is the only fully integrated rifle scope manufacturer in the United States and could be quickly converted to the manufacture of military optics in a time of national emergency. Just this month we are shipping 100 of our sophisticated T-scopes to the U.S. Marines. This asset would of course be lost if Weaver goes out of business.

Then, there are the 400 jobs that would be lost in a city with nearly 11-percent unemployment. Our labor force which is predominately Mexican-American and our city government stands firmly behind us in opposition to this bill. The only benefactors of the elimination of this duty are the Japanese manufacturers. Our competition with them has kept prices down to the American consumer. Without Weaver to compete with, they would be free to raise prices at will. This is certainly not in our best interests as U.S. citizens.

We, the domestic rifle scope industry, our labor union, and our city government urge you to reject this bill for the good of the American people. If not, the company which pioneered the U.S. rifle scope in the United States will disappear.

Thank you very much.

[The prepared statement of Alton F. Thomas follows:]

STATEMENT OF

ALTON F. THOMAS
MARKETING DIRECTOR
W. R. WEAVER COMPANY

INTRODUCTION

W. R. Weaver Company submits this statement in opposition to S. 1642, which would eliminate the tariff on telescopic sights for rifles valued at $50 or less. If enacted, this bill would have a devastating impact on the domestic rifle scope industry. It would exacerbate the injury already suffered by W. R. Weaver Company and the other domestic rifle scope producers as a result of loss of sales to low-priced imports, and would lead to a further decline in sales and production, severe financial losses, and significant unemployment. Indeed, the effect of passage of this bill would be to jeopardize Weaver's existence.

BACKGROUND

W. R. Weaver Company was started fifty years ago by Bill Weaver, who designed and manufactured the first rifle scopes at prices affordable to the average American sportsman. Since 1968, Weaver has been a wholly-owned subsidiary of Olin Corporation. Throughout its history, Weaver has maintained a reputation for quality products at affordable prices. The Company has produced more rifle scopes than any other manufacturer in the world. Weaver was the only supplier of telescopic rifle scopes to the United States Army during World War II. In addition, during the past few decades, it has supplied rifle scopes to, or has advised, the Army, Navy, Marines and Secret Service.

Today Weaver is the largest and only fully integrated domestic rifle scope manufacturer. The Company employs nearly 400 workers. Weaver's machinery and equipment are technologically advanced, and its production processes are very efficient. For example, its spherical optics equipment and production processes are state-of-the-art technology.

However, even though Weaver is more technologically advanced and its products are of higher quality than the import competition, the Company has been severely injured during the last few years from loss of sales to low-priced Japanese and Korean imports. The Department of Labor determined that during 1980 imports had contributed importantly to a decline in Weaver's sales and production and the layoff of its workers.

Since 1980, import penetration has continued to increase at great cost to Weaver, whose output and sales have declined further. Imports have captured a 40 percent share of the market, and the Japanese share of the imports is by far the largest. As a consequence, for the first time in its history, Weaver incurred substantial losses in 1982 and the first half of 1983. During this same time period, Weaver was forced to lay off an additional 180 employees.

Although the quality of Japanese and Korean imports is inferior to U.S. products, these imports sell well because they are priced significantly below U.S. prices. Korean imports have been entering the country duty-free under the Generalized System of Preferences ("GSP"). Because of this advantage with respect to duty, Korean imports have even underpriced Japanese imports.

Even with the twenty percent tariff currently in effect, the prices of Japanese imports are less than the lowest-priced American products. While the Japanese may be dumping, a substantial reason for the price disparity appears to be the difference in Japanese and U.S. labor costs. Japanese (and Korean) rifle scope manufacturing is a cottage-type industry that employs relatively few full-time workers. Most of the companies subcontract with temporary employees for the manufacture of parts and lenses. These temporary employees work on a piece-rate basis and contract to produce a certain number of parts, regardless of the hours actually worked. While the wages Weaver pays to its employees are moderate in U.S. terms, they greatly exceed wages paid Japanese or Korean workers and are paid to many more full-time employees. Because rifle scope manufacturing is very labor intensive, the cost difference due to labor alone is significant.

EFFECT OF PASSAGE OF S. 1642

If enacted, S. 1642 would lead to a substantial decrease in prices of Japanese rifle scopes. The proposed legislation, which would apply to all rifle scopes valued at $50 or below, would cover virtually all Japanese imports. Elimination of the present twenty percent tariff can be expected to lead to a price decrease of some seventeen percent at the retail level.

If the Japanese were to enjoy this added price advantage, Weaver products would be even less competitive with Japanese imports. As a result, Weaver would lose a tremendous volume of business. Given its already weakened financial position due to the import competition, the Company would not likely survive. At a minimum, Weaver would have to cut back drastically its production and work force. Since the unemployment rate in El Paso is nearly eleven percent, it would be very difficult for these laid-off Weaver workers to find new employment.

Moreover, if Weaver did not survive, the Department of Defense would be deprived of a valuable resource. Our national defense is enhanced by maintaining an active optical sight manufacturer with engineering experience and operational ability to convert rapidly to the production of military sights.

Finally, the other domestic manufacturers -- Redfield Company, Leupold & Stevens, Inc., and Burris Company, Inc., -- who also strongly oppose S. 1642, would be adversely affected as well. Because of sales and revenues lost to imports, these companies would be forced to lay off substantial numbers of employees.

CONCLUSION

W. R. Weaver Company urges the Subcommittee to reject S. 1642, because it threatens the existence of Weaver and, indeed, the entire domestic industry. These dire consequences should be viewed in light of the fact that the major beneficiary of this legislation is the Japanese rifle scope industry. The current tariff is necessary to permit the domestic manufacturers to pay their workers commensurate with the standard of living in the United States and to enable them to continue to supply the civilian and military needs of this country.

Senator Danforth. Thank you very much, sir.

I am told that on S. 1296 Mr. Haight was here to testify, and I inadvertently neglected to call on him. Is Mr. Haight here?

Mr. Haight, I apologize to you. I just totally missed you on the list of people who were named to testify on S. 1296. It would be a dreadful thing if you came here all the way from Miami and didn't have your time at bat. So, thank you very much.

Mr. Haight. Well, Senator, no apology is necessary; I understand. And thank you for the opportunity.

STATEMENT OF DWIGHT HAIGHT, PRESIDENT, ASSOCIATION OF FLORAL IMPORTERS OF FLORIDA

Mr. Haight. My name is Dwight Haight, and I am the president of the Association of Floral Importers of Florida. I am accompanied today by Thomas A. Rothwell, Jr., counsel for our association.

Since I have already submitted written testimony, I would like to simply summarize the reasons why our association opposes Senate bill 1296.

First, 1296 represents a direct attack on the historic free-trade philosophy of the United States. This bill would erect trade barriers at the very time when the U.S. Government is pressing our international trading partners to eliminate unfair and restrictive trade practices.

Second, 1296 would artificially increase the cost of cut roses to the American consumer while at the same time limiting their supply. Creating artificial trade barriers only serves to protect the inefficiencies for which the domestic consumer ultimately pays.

Third, 1296 would have a devastating effect upon the association's member companies employment of over 700 people and the thousands more employed in related industries throughout the State of Florida. Enactment of S. 1296 would place these U.S. companies, many of whom are small businesses, in financial jeopardy and would have a disastrous effect on the south Florida economy.

Finally, one positive step has been taken recently when the Floral Promotion Board, Floraboard, whose membership includes both domestic producers and cut flower importers, was created. Its aim is to increase the U.S. consumption of cut flowers through generic promotion and advertising to bring the U.S. per capita purchases up to the level of Western European nations.

It seems to me that the domestic rose industry should be putting its effort forth into Floraboard as an increase in the market for cut flowers would benefit our entire industry.

Thank you for the opportunity to present these comments.

Senator Danforth. Mr. Haight, thank you very much, and thank you for your patience.

Mr. Haight. Thank you.

[The prepared statement of Dwight Haight follows:]

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TESTIMONY OF DWIGHT HAIGHT, PRESIDENT
ASSOCIATION OF FLORAL IMPORTERS OF FLORIDA
BEFORE THE FINANCE COMMITTEE,
SUBCOMMITTEE ON INTERNATIONAL TRADE
U.S. SENATE, OCTOBER 21, 1983

GOOD MORNING, MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE. MY NAME IS DWIGHT HAIGHT. I AM PRESIDENT OF THE ASSOCIATION OF FLORAL IMPORTERS OF FLORIDA. SINCE YOU ALREADY HAVE MY WRITTEN TESTIMONY, I WOULD SIMPLY LIKE TO SUMMARIZE THE REASONS WHY OUR ASSOCIATION OPPOSES S-1296.

1ST, S-1296 REPRESENTS A DIRECT ATTACK UPON THE HISTORIC FREE TRADE PHILOSOPHY OF THE UNITED STATES. THIS BILL WOULD ERECT TRADE BARRIERS AT THE VERY TIME WHEN THE U.S. GOVERNMENT IS PRESSING OUR INTERNATIONAL TRADING PARTNERS TO ELIMINATE UNFAIR AND RESTRICTIVE TRADE PRACTICES.

2ND, S-1296 WOULD ARTIFICIALLY INCREASE THE COST OF CUT ROSES TO THE AMERICAN CONSUMER, WHILE AT THE SAME TIME, LIMIT THE SUPPLY. CREATING ARTIFICIAL BARRIERS TO TRADE ONLY SERVES TO PROTECT INEFFICIENCIES FOR WHICH THE DOMESTIC CONSUMER ULTIMATELY PAYS.

3RD, S-1296 WOULD HAVE A DEVASTATING EFFECT UPON THE ASSOCIATION'S MEMBER COMPANIES EMPLOYMENT OF OVER 700 PEOPLE, AND THE THOUSANDS MORE EMPLOYED IN RELATED INDUSTRIES THROUGHOUT THE STATE OF FLORIDA. ENACTMENT OF S-1296 WOULD PLACE THESE U.S. COMPANIES, MANY OF WHOM ARE SMALL BUSINESSES, IN FINANCIAL JEOPARDY AND WOULD BE DISASTROUS TO THE FLORIDA ECONOMY.

FINALLY, ONE POSITIVE STEP HAS RECENTLY BEEN TAKEN WHEN THE FLORAL PROMOTION BOARD, FLORABOARD, WHOSE MEMBERSHIP INCLUDES BOTH DOMESTIC PRODUCERS AND CUT FLOWER IMPORTERS, WAS CREATED. ITS AIM IS TO INCREASE U.S. CONSUMPTION OF ALL CUT FLOWERS THROUGH GENERIC PROMOTION AND ADVERTISING TO BRING U.S. PER CAPITA PURCHASES UP TO THE LEVEL OF THE WESTERN EUROPEAN NATIONS. IT SEEMS TO ME THAT THE DOMESTIC ROSE INDUSTRY SHOULD BE PUTTING ITS EFFORT INTO FLORABOARD, AS AN INCREASE IN THE MARKET FOR FLOWERS WOULD BENEFIT THE ENTIRE INDUSTRY.

THANK YOU FOR THE OPPORTUNITY TO PRESENT MY COMMENTS. I WILL BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE.

Senator DANFORTH. Finally, S. 1853. Mr. Legnon.

Mr. Legnon also will be the last witness in a long morning of an innumerable number of bills.

We appreciate your patience.

STATEMENT OF EDWIN LEGNON, VICE PRESIDENT, GULF FLEET MARINE INC., NEW ORLEANS, LA.

Mr. LEGNON. Thank you, Mr. Chairman. I also appreciate the opportunity to be here this morning to present my testimony in support of Senate bill 1853.

My name is Edwin Legnon, and I'm vice president of Gulf Fleet Marine Corp., which is headquartered in New Orleans. We are a subsidiary of Pott Industries out of St. Louis, Mo. Pott Industries in turn is a subsidiary of Houston Natural Gas Corp. with headqarters in Houston, Tex.

Gulf Fleet owns and operates 150 seagoing tugs, supply, towing supply vessels, crew and utility boats, and deck barges in the United States and overseas. Our vessels perform a variety of services related to the exploration and development of offshore oil and gas. They carry pipe, crews, and other supplies to offshore mobile drilling units and offshore production facilities. They also have two drilling units to drill sites and assist in positioning and anchoring these large offshore drilling facilities.

Speak not only for Gulf Fleet but also for the offshore service companies, Tidewater, Seahorse Inc., Offshore Logistics, Otto Candies, and member companies of the Offshore Marine Services Association, which is a New Orleans based trade association representing companies like Gulf Fleet. We endorse and urge the enactment of S. 1853, to amend the Tariff Act of 1930, to exempt from duty equipment and repairs to certain vessels.

American Petrofina, a Dallas-based integrated oil company which operates tankers, and Sea-Land Industries, Inc., the largest U.S.-flag blue-water shipping company, also support S. 1853, and I understand both of them will submit statements for the record.

Under current law, 19 U.S.C. 1466. there is a 50-percent ad valorem duty on repairs made ovearseas on a U.S. vessel.

For example, if a gulf coast company's offshore supply vessel returns to a U.S. port after 10 years overseas, the company must pay the U.S. Government a duty equal to 50 percent of the company's repair costs while the vessel was overseas. This exposure to duty has influenced our decision at Gulf Fleet to sell at least two of our vessels overseas and place them under foreign flag rather than return the vessels to the United States and risk paying the duty. Pure economics dictated our decision that we sell the vessels rather than bring them back to the United States, and I know this has occurred in other companies in our industry.

Subsection (e) of 19 U.S.C. 1446, however, exempts vessels that do not carry property or persons, such as a mobile drilling unit, from the 50-percent duty if the exempted vessel was overseas for 2 or more years. But if the vessel incurred repairs within 6 months of departing a U.S. port, then the vessel is subject to the 50-percent ad valorem duty on those repairs.

S. 1853 would amend the current law exemption by extending its provisions to all U.S.-flag vessels, plus an additional limitation that the exemption would not apply to those vessels not previously exempted which left the United States for the purposes of obtaining repairs.

The reasons for enacting S. 1853 are several. First, when a vessel is overseas for 2 or more years, it is unreasonable as well as uneconomical for that vessel to return to the United States for routine and special repairs.

Another reason is that when a U.S. vessel is overseas many years, current law is very difficult to administer. Frequently it will take 2 or 3 years after the vessel arrives back in the United States to determine the 50-percent ad valorem duty. Tracking down the invoices and other records for these repairs while made overseas requires an extended period of time and may take up to 1½ to 2½ years, just to gather those records.

Finally, current law exempting vessels which do not carry passengers or property, if overseas for 2 or more years, has spawned numerous disputes and expensive litigation. For example, a tug or a vessel used primarily as a tug overseas might be exempt because it does not carry property or persons. A vessel of the same type as a tug but used frequently to carry supplies may be liable for the duty. Obviously, when a vessel has had a mixed use overseas, confusion and disputes arise when the Treasury Department tries to administer current law.

In conclusion, Mr. Chairman, the present 50-percent ad valorem duty on repairs on U.S. vessels overseas for more than 2 years serves no purpose, and it very difficult to administer.

I thank you very much.

[The prepared statement of Edwin K. Legnon follows:]

Statement of Edwin K. Legnon
on S. 1853

MR. CHAIRMAN, and members of the International Trade Subcommittee, my name is Edwin K. Legnon. I am the Vice President - Legal and Administration, of Gulf Fleet Marine Corporation, headquartered in New Orleans, Louisiana. Gulf Fleet is a subsidiary of Potts Industries of St. Louis, Missouri, and Pott is in turn a subsidiary of Houston Natural Gas Corporation, which is headquartered in Houston, Texas.

Gulf Fleet owns and operates 150 seagoing tugs, supply, towing supply vessels, crew and utility boats, and deck barges in U.S. waters and overseas. Our vessels perform a variety of services related to the exploration and development of offshore oil and gas. They carry pipe, crews, and other supplies to offshore mobile drilling units, and offshore production facilities. They also tow drillling units to drill sites, and assist in positioning and anchoring these large offshore drilling facilities.

I speak not only for Gulf Fleet, but also for the offshore service companies, Tidewater, Seahorse, Inc, Offshore Logistics, Otto Candies, Inc. and the member companies of the Offshore Marine Services Association, a New Orleans based trade association representing companies like Gulf Fleet. We endorse, and urge the enactment of S. 1853, to amend the Tariff Act of 1930 to exempt from duties, equipments and repairs to certain vessels.

American Petrofina, a Dallas based integrated oil company which owns tankers, and Sea-Land Industries, Inc., the largest U.S. flag blue-water shipping company, also support S. 1853. I understand they both will submit statements for the record, Mr. Chairman.

Under current law (19 U.S.C. 1466) there is a 50% ad valorem duty on repairs made overseas on a U.S. vessel.

For example, if a Gulf Coast company's offshore supply vessel returns to a U.S. port after 10 years overseas, the company must pay the U.S. government a duty equal to 50% of the company's repair costs while the vessel was overseas.

(2)

This exposure to duty has influenced our decision to sell at least two of our vessels overseas and place them under foreign flag rather than return them to the U.S. and risk paying the duty. Pure economics dictated that we sell the vessels rather than bring them back to the U.S. I know this has occurred at other companies in our industry.

Subsection (e) of 19 U.S.C. 1446, however, exempts vessels that do not carry property or persons, such as a mobile drilling unit from the 50% duty if the exempted vessel was overseas for 2 or more years; but if that vessel incurred repairs within 6 months of departing a U.S. port, then the vessel's owner is subject to the 50% ad valorem duty on those repairs.

S. 1853 would amend the current law exemption by extending its provisions to all U.S. flag vessels, plus an additional limitation that the exemption would not apply to those vessels, not previously exempted, which left the U.S. for the purpose of obtaining repairs.

The reasons for enacting S. 1853 are several. First, when a vessel is overseas for 2 or more years, it is unreasonable, as well as uneconomical, for that vessel to return to the U.S. for routine and special repairs.

Another reason is that when a U.S. vessel is overseas many years, current law is very difficult to administer. Frequently, it takes 2 to 3 years after a vessel arrives in a U.S. port to determine the 50% ad valorem duty. Tracking down the invoices of all repairs made overseas during an extended period of time may take 1-1/2 to 2-1/2 years.

Finally, current law, exempting vessels which do not carry passengers or property if overseas for two or more years, has spawned numerous disputes, and expensive litigation. For example, a tug, or a vessel used primarily as a tug overseas, might be exempt because it does not carry property or persons. A vessel of the same type as a tug, but used frequently to carry supplies, may be liable for the duty. Obviously, when a vessel has had a mixed use overseas, confusion and disputes arise when the Treasury Department tries to administer current law.

The revenue impact of this legislation is minor. The limited exemption provided would result in a $2 to $3 million reduction in revenues to the Treasury on an annual basis.

In conclusion, the present 50% ad valorem duty on repairs on U.S. vessels overseas for more than 2 years serves no purpose, and is very difficult to administer.

Senator DANFORTH. Thank you very much, sir. I appreciate your patience and appreciate your being here.

Mr. LEGNON. Thank you.

Senator DANFORTH. That concludes the hearing.

[Whereupon, at 12:16 p.m., the hearing was concluded.]

[The following communications were made a part of the record:]

U.S. SENATE,
Washington, D.C., October 21, 1983.

Hon. JOHN C. DANFORTH,
Chairman, Subcommittee on International Trade,
Committee on Finance, Washington, D.C.

DEAR JACK: I am writing in support of S. 759, a bill that I am cosponsoring with Senator Mitchell and which is a subject of your subcommittee's hearing today. Similar legislation was favorably reported by the Committee on Finance last year and has had the support of the entire domestic fishing industry, from Alaska to Maine, for several years.

S. 759 would amend the Tariff Schedules of the United States by reducing the current rate of $0.18 per pound plus 28.6 per cent ad valorem on imported fish netting to 17 per cent ad valorem.

Although the bill would accelerate the reduction of tariff rates on imported fish netting, as agreed to by the United States at the 1979 Tokyo Round Multinational Trade Negotiations, it would not create further tariff cuts. In fact, tariffs on imported cotton and vegetable fiber netting have already been reduced and this legislation only brings the tariff on synthetic netting into parity with those rates. Also, its passage would continue to guarantee substantial tariff protection to domestic net manufacturers who, from the standpoint of most domestic fishermen, have been extremely slow in developing braided trawl netting, and certain monofilament gill-net twine, of a quality equal to that available from overseas sources.

The issue of quality is important when considering tariff reductions for imported fish netting. Commercial fishermen can spend from $1,000 to $300,000 on netting each year. The average ground-fishermen in Maine will spend as much as $15,000 this year on netting alone, building the net himself in order to minimize his costs. Although expensive, he will bear the current duty, which represents nearly one-third of the net's total cost, because he simply cannot buy domestic synthetic netting of the quality that he can purchase from overseas sources. We should not continue to impose this additional high cost on our fishermen when they have no real alternative to continuing to import high-quality fish netting. The tariff should be immediately reduced to the lowest possible level.

The United States, under the provisions of the Magnuson Fishery Conservation and Management Act, is committed to the development of a strong, competitive fishing industry and to the full utilization of our important fishery resources. While the U.S. has reduced tariff and non-tariff barriers to imported fishery products, in the interest of free trade, we have maintained high tariff barriers against the importation of gear which is necessary to the fisherman's ability to make a profit.

As a result of these conflicting policies, the import duties on foreign fish netting and nets consume as much as nine per cent of the profits made by American fishermen while, at the same time, the fisheries represent our fifth largest balance of trade deficit, totaling nearly $3 billion.

The International Trade Commission (ITC), at my request, will soon begin investigating the effect of unrestrained fisheries product imports into the United States. It is equally important that we also address the tariff impediments that have been placed upon fish netting, and which have constrained the profits of American fishermen, by immediately reducing those tariffs.

I would point out to the Subcommittee that, according to the ITC, the American synthetic net industry only employs about 1,000 persons and the enactment of S. 759 would result in a loss of less than $6 million to the U.S. Treasury. Last year, the American fishing industry employed over 300,000 persons and U.S. commercial fisheries landings totalled more than $2 billion.

In the interest of fostering greater competition in the domestic fish netting industry, promoting the continued development of our nation's fisheries, and in view of the overall positive effect that this legislation would have on our economy as a whole, I urge the Subcommittee to favorably report S. 759 to the full committee at its earliest convenience so that passage may be assured this year.

Thank you for the opportunity to comment on this issue which is so important to the fishermen of Maine and the rest of the country.

With warm regards, I am

Sincerely,

WILLIAM S. COHEN,
U.S. Senator.

REMARKS OF SENATOR DAVE DURENBERGER

Mr. Chairman, I appreciate the opportunity to submit these remarks on behalf of S. 37 for the hearing record. I do not intend to address the technical aspects of the bill. I believe the other witnesses can do that much more effectively than I can.

I do want to mention the three concerns that prompted me to sponsor this legislation. First and foremost is my role as chairman of the Health Subcommittee of Finance Committee. We should be seeking every means possible of reducing health care costs which are still the fastest growing component of the CPI. Health care cost inflation is still rising at a double-digit rate. Fair treatment of these disposable materials will help us contain these spiraling costs. Though the actual dollar impact may not be huge, I think the symbolic value of attacking this health care cost problem on all fronts is very important.

Secondly, the matter of jobs is important to us all. I could not support this measure if it meant a wholesale exporting of jobs away from the United States. In fact the materials covered by S. 37 have only one level of value added outside the country. All other steps take place in the United States and a significant number of new jobs are being created as production of these materials in the United States is increased.

My final concern is that of equity. There is no reason why the materials covered by S. 37 should be forced to pay substantially higher duties than almost identical products with the exact name and use. I understand that Customs must draw some very fine lines between products at certain times, but I do not think that such a distinction is merited in this case.

Thank you again, Mr. Chairman, for the opportunity to add these remarks to the hearing record.

STATEMENT OF SENATOR STROM THURMOND

Mr. Chairman, I am pleased that your subcommittee is holding this hearing on miscellaneous tariff bills pending before the Senate Finance Committee.

On January 27, 1983, I introduced S. 221, a bill to temporarily suspend until June 30, 1986, the duty on certain menthol feedstocks. The feedstocks that this bill concern are utilized by domestic manufacturers to produce synthetic menthol. A duty is applied to these chemicals when they are imported to the United States from West Germany. Since there are no domestic industries that produce these particular feedstocks, this duty does not afford protection by any chemical manufacturer in the United States. To the contrary, it imposes an unnecessary economic burden on the United States menthol industry by increasing the production costs for that industry.

This unnecessary duty only compounds the problems that face our domestic menthol industry. In 1977, when Mainland China was granted most Favored Nation status, the duty on Chinese menthol fell from 50¢ per pound to 17¢ per pound. This forced our domestic menthol producers to compete with highly subsidized and cheaply produced menthol imports. This situation coupled with tariffs on menthol imports imposed by countries such as Japan, have placed our domestic producers of menthol at a competitive disadvantage.

Mr. Chairman, there is a synthetic menthol plant located in Charleston, South Carolina, which opened for operation in 1977. This plant is a single purpose facility designed only to produce menthol. The plant employs 47 South Carolinians, and has an annual payroll of $1,100,000. However, the stability of this plant and of the entire domestic menthol industry is being threatened by cheaply produced, and often subsidized, menthol imports, as well as by burdensome trade barriers abroad.

In order to preserve viability in our domestic menthol industry, it is important that the present tariffs on certain menthol feedstocks be suspended.

I realize that this duty suspension does not represent a complete solution to the numerous trade difficulties that our domestic menthol producers face today.

However, it would allow America's menthol manufacturers to become more price competitive with menthol imported from Mainland China. This will help preserve America's menthol industry and the many jobs it represents. For that reason, I am hopeful that the Finance Committee can favorably consider this bill, S. 221, as part of the miscellaneous tariff bill that will be reported out of the Finance Committee in the future.

STATEMENT OF SENATOR JOHN TOWER

Mr. Chairman and distinguished members of the Senate Finance Committee, I am pleased to have this opportunity to express my strong support for S. 1411, a bill to provide that certain property held in foreign trade zones shall be exempt from State and local ad valorem taxation. S. 1411 is very simply a clarification of existing law that will remedy a gap in the national uniformity of treatment of international trade.

Congress created foreign trade zones to make our country competitive in the international marketplace. Local taxation of goods located in a foreign trade zone would, of course, frustrate the congressional purpose. The Federal preemption of this type of taxation has been uniformly recognized outside of Texas. However, because of restrictions in the Texas constitution, the formal recognition by the State of Texas is not possible.

The lack of a definitive statute in Texas has created a hesitation among businesses that might otherwise use Texas foreign trade zones. A State statute is, of course, not necessary to restate a Federal preemption. A State statute would be merely gratuitous, to insure that local authorities comply with Federal law. Without such a statute to show local assessors, however, businesses are concerned that they will be forced to go to court in order to secure an ad valorem tax exemption to which they are entitled. Although the recent U.S. Supreme Court case of Xerox Corporation against Harris County seems to make the state of the law clear, businesses do not like to operate based on how case law would help them if they are forced to go to court.

By simply restating the existing Federal preemption of ad valorem taxation, I believe S. 1411 will facilitate the development of foreign trade zones. In the past 15 years, the number of jobs in foreign trade zones has increased by 20 times, and the value of shipments through foreign trade zones has increased to over $7 billion. I also believe this bill will further enhance the growth of foreign trade zones, and by adding American value to goods manufactured or assembled in foreign countries, the deficit in the balance of trade is reduced.

In my view, the enactment of S. 1411, by merely clarifying the existing Federal preemption of ad valorem taxation of Federal trade zone inventory, will enhance the development of all foreign trade zones and fulfill the congressional intent in establishing foreign trade zones, the creation of new jobs, and encouragement of capital investment.

STATEMENT OF SENATOR JOHN W. WARNER

Mr. Chairman, First, I would like to thank you for holding this hearing.

I know that this is a large and difficult task that you are undertaking, but it is important and I wish you well.

I am here to speak on behalf of S. 453, my legislation which imposes a one-tenth of one cent per gallon duty on apple and pear juice imported into this country.

Between 1976 and 1981, the quantity of apple juice imported into the United States grew from 34.88 million gallons to 71.39 million gallons. The 1981 import quantity represents 10.67 million bushels of apples, just about equal to the total apple production in the Commonwealth of Virginia for 1982. Though the 1983 figures are not in yet, because of the drought experienced by Virginia apple growers, that figure will be somewhat smaller.

Foreign apple juice is imported in concentrated form for reconstitution in this country. Thirty million gallons of this increase is from Argentina which shipped 18.86 million gallons in 1976 and 40.57 gallons in 1981.

The dramatic increase in apple juice imports are a major concern to U.S. apple growers. Their concerns are magnified when we find that the government of an exporting nation is providing a substantial subsidy to the processors and exporters of that product. In meetings with apple growers, I have found a willingness to compete with growers in other countries on a fair basis, but a resentment of having to compete with governments.

Such is the case with Argentina. The Argentine government is subsidizing its apple industry to develop exports at the expense of U.S. apple growers.

According to information from the Foreign Agriculture Service, about 65 percent of apples for processing in Argentina go to concentrated juice. Most of this concentrated juice is exported to the United States.

Export rebates for concentrated apple juice is 10 percent, plus 10 percent for shipments through Puerto Madryn.

Additionally, export rebates of 15 percent have been used for certain periods. Financial/commercial exchange rate mix for concentrated apple juice exports give even more financial incentives for exports.

It appears that the major problem confronting the U.S. apple industry in this situation is the fact that the Tariff Schedule of the United States provides no duty on apple and pear juice imported from countries which enjoy "Most Favored Nation" designations. Imports of apple and pear juice from countries not enjoying MFN designation are subject to a duty of 5 cents per gallon under T.S.U.S. Item No. 165.15. Apple and pear juice are the only juice imports free of duty under the MFN category.

Because there is no tariff, at present, the apple grower has no legal ability to take this matter to the Department of Commerce, and apple processors would have to initiate costly, time-consuming legal and administrative procedures before the International Trade Commission. I believe S. 453 will be speedier and much less costly to address this problem.

I do not believe in high tariff barriers, and S. 453 is not that kind of bill; the amount of one-tenth of one cent is only used to ensure that imported apple and pear juice come under the same administrative procedures as other juices.

I hope that the Committee will report my legislation to the Senate and that the Congress will move to pass it at the earliest opportunity.

Thank you, Mr. Chairman.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., October 19, 1983.

Hon. JOHN C. DANFORTH,
Chairman, Subcommittee on International Trade,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: I want to take this opportunity to offer my comments on S. 759, a bill that would lower the tariff for certain fish netting and fish nets. I understand that your Subcommittee will be holding a hearing on this legislation on October 21st, and I would appreciate your making this letter part of the Subcommittee record.

As you know, this legislation has been introduced in previous sessions and is widely supported by the U.S. fishing industry, including fishermen in Alaska. The bill would accelerate an already scheduled tariff reduction on certain netting material, thereby providing much needed relief for an important domestic industry. For example, in the Alaskan salmon fishery alone, it is estimated that each salmon gillnetter would save $850 per year. While this sum may not seem substantial, the Subcommittee should be aware that the rising cost of fuel and the falling prices paid for fish have made any savings extremely important for an economically successful fishing operation. Further, salmon gillnet vessels are small vessels, 32 feet or less in length. Larger vessels, such as those used in New England and in the developing groundfish fisheries off Alaska, could realize a much larger saving if this bill is enacted.

In 1976, the Congress passed the Fishery Conservation and Management Act and established as a national policy the full development of our domestic fishing industry. While that development is now taking place, it has been slowed by a variety of factors, including the expense of harvesting unfamiliar species of fish in unfamiliar waters using unfamiliar gear. Passage of this bill would be a positive step in the direction of full development of the U.S. fishing industry.

Mr. Chairman, I urge that you move expeditiously in passing this bill without amendment so that the U.S. fishing industry can continue to move toward the goal of full development of the fisheries in our 200 mile zone.

Sincerely,

DON YOUNG.

Statement of the
American Apparel Manufacturers Association
Before the
Subcommittee on International Trade
of the
Senate Committee on Finance
October 21, 1983

Mr. Chairman, my name is Stewart Boswell. I am Director of Government Relations of the American Apparel Manufacturers Association (AAMA). We support S. 847, introduced by Senator Heinz and Section 121 of H.R. 3398. The former would extend the existing duty suspension on imported raw down and feathers for an additional five years; the latter, for three years. Our preference is for S. 847.

AAMA is the central trade association for the American apparel industry representing about two-thirds of domestic apparel production capacity. Its membership is nationwide and includes all items of apparel production. It's down apparel division counts among its specific membership manufacturers of down apparel products and their suppliers, the procesors of raw down and feathers. It represents about 81% of domestic down apparel production.

The domestic down apparel industry consists of about 60 firms, most of which are small companies employing less than 250 workers. They are geographically scattered throughout the United States. Domestic production of down parkas, jackets, and vests is averaging about 3.0 million units annually with imports accounting for another 5 million units. Thus domestic manufacturers are supplying only about a 40% share of the market.

The amount of domestically produced raw down and feathers continues to be small. About three-fourths of the more than 20 million pounds normally required to meet American manufacturing and processing needs must be obtained from foreign sources where waterfowl food is more popular than in the United States.

A continuation of the duty suspension in this case would lower the costs to domestic manufacturers of down filled apparel and other articles and help their competitive position with respect to imports, particularly imports of down coats, jackets, and vests. The first duty suspension was passed by Congress in 1974 and the second in 1980. H.R. 3398 and S. 847 would simply continue the existing duty suspension.

This legislation is important to the down apparel segment of our industry, and we would appreciate its favorable consideration by the Committee.

EX IM American Association of
Exporters and
Importers 11 West 42nd Street, New York, NY 10036 (212) 944-2230

STATEMENT OF

THE AMERICAN ASSOCIATION OF EXPORTERS AND IMPORTERS

TO THE

SUBCOMMITTEE ON INTERNATIONAL TRADE

COMMITTEE ON FINANCE

UNITED STATES SENATE

on the subjects of:

S. 722 - amending the Foreign Trade Zones Act (section 3) to exempt bicycle component parts, not reexported, from the exemption from customs laws otherwise available to merchandise in foreign trade zones, until June 30, 1986;

and,

S. 1845 - amending TSUS item 801.00 to provide that articles reimported into the United States, if they previously entered duty-free pursuant to provisions of the Caribbean Basin Economic Recovery Act or the Generalized System of Preferences, could again enter duty-free.

Date submitted: Monday, October 31, 1983

Comment to the Subcommittee on International Trade, United States Senate Committee on Finance on S. 722 and S. 1845.

This statement is filed on behalf of the American Association of Exporters and Importers ("AAEI"), a nationwide, non-profit association, established in 1921. The Association is currently comprised of some 1300 American firms and service organizations engaged in various and diverse exporting and importing operations. The Association is a recognized voice of the American International Trade Community, and welcomes the opportunity to present its views on the bills which were scheduled for hearing before the Subcommittee on October 21, 1983.

While the matters set for hearing by the Subcommittee are all of interest to our members, there are two bills of particular significance which we will address in this comment. These proposals are Section 211(a) of H.R. 3398 (S.722) regarding the exemption of bicycle component parts from certain provisions of the Foreign Trade Zones Act of 1934 and S. 1845, amending TSUS Item 801.00. Following analysis and discussion on these two bills by AAEI's Schedule 8 Committee (Gilbert Lee Sandler of Sandler & Travis, P.A., Chairman), the Association endorses the amendment to TSUS Item 801.00, but strongly apposes the exclusion of bicycle components from the benefits provided under the Foreign Trade Zones Act.

TSUS Item 801.00 (S. 1845)

This bill is designed to cure an unintended and anomalous problem under TSUS item 801.00 The tariff item is designed to permit duty-free treatment for articles, previously imported, if reimported (1) without having been changed during export under lease to a foreign manufacturer and (2) if imported by and for the account of the person who exported it from the United States. The provision is obviously a very limited one, permitting duty-free treatment in a situation in which logic dictates that such treatment is justifiable: the importer has paid duty once, he should not be required to pay duty a second time as a consequence of a lease for using the article abroad.

However, the language contained in TSUS Item 801.00 appears to require full duty assessment on reimported articles which were originally imported, duty-free, under the Generalized System of Preferences or under the recently enacted Caribbean Basin Economic Recovery Act. This anomalous result occurs because the language of 801.00 limits its application to merchandise which was the subject of duty payment on its first importation:

> "Articles, previously imported, with respect to which the duty was paid upon such previous importation,***".

Neither the GSP nor the recently enacted CBERA provide for duty-free treatment if an eligible article is reimported for a second time. Reimported articles are probably ineligible for duty-free treatment under the GSP or CBERA because they would not have been imported "directly" from the beneficiary developing (or CBERA - eligible) country. If such articles are returned unaltered, and after being leased to a foreign manufacturer, they would be duty-free under TSUS item 801.00 except for the fact that no duty was paid on the original importation. This peculiar result was certainly unintended by the Congress when it adopted 801.00, a provision which predates both the GSP and the CBERA.

We strongly urge the Congress to adopt the proposed legislation which would cure this anomalous result. Moreover, we suggest that the Subcommittee consider the broader possibility of permitting duty-free treatment for reimported GSP and CBERA products which arrive back in the United States (1) unaltered and (2) while the country of production and the product involved remain eligible for duty-free treatment.

Bicycle Components under the Foreign Trade Zone Act (Section 211 (a) H.R. 3398/S. 772)

The purpose of this provision is to prohibit the use of foreign trade zones to manufacture or assemble bicycles from foreign parts if the manufactured bicycles are to be entered into the United States Commerce. Accordingly, this bill would require that all bicycle parts assembled in Foreign Trade Zones be exported.

If this bill is adopted, the Congress will have created a unique exception from the Foreign Trade Zone Act for one particular industry. Such special treatment is unnecessary and inappropriate.

The Foreign Trade Zone Act providently does not include any special provisions for individual industries or sectors of the economy. Instead, it provides the broad general authority for the operation of foreign trade zones, under rules uniformly applicable to all products.

Nonetheless, the general statutory provisions include adequate protection for individual industries by petition to the Foreign Trade Zone Board. The Board possesses broad, descretionary authority to prohibit any use of foreign trade zones found not to be in the "public interest".

The bicycle legislation would by-pass the Board's authority and would open the Congress to petitions from any industry feeling aggrieved by activities in a foreign trade zone. If excepted by the Congress, the Foreign Trade Zone Board would lose its ability to flexibly apply the law. The problems of a particular industry, if they merit exemption from the provisions of the Act, should not be accorded the near-permanent exemption inherent in such a legislative provision.

Moreover, the Congress has initiated a more reasonable approach to the broader questions regarding the impact of Foreign Trade Zones on imports. Studies underway by the GAO and the ITC will address these issues and provide the Congress with a reasonable basis to consider whether comprehensive legislative change is needed in connection with Foreign Trade Zones. A piecemeal attack on an industry-by-industry basis can serve only to create a confused and incoherent trade policy and uncertainty among importers and our foreign trading partners.

We urge the Subcommittee to report unfavorably on this legislation and to approach any amendment of the Foreign Trade Zone Act on the basis of the broader non-sectoral issues under study by the GAO and the ITC.

Thank you for providing the opportunity to AAEI to comment on the two bills.

Sincerely,

Gene Milosh

Eugene J. Milosh
Executive Vice President

EJM:lk

STATEMENT OF
AMERICAN PETROFINA, INCORPORATED
TO THE SUBCOMMITTEE ON INTERNATIONAL TRADE
COMMITTEE ON FINANCE

U.S. SENATE

Re: S. 1853

On October 21, 1983 the Subcommittee on International Trade of the Senate Committee on Finance held hearings on miscellaneous tariff bills, including S. 1853, introduced on September 19, 1983 by Senators Tower and Johnston. This statement, in support of S. 1853, is provided by American Petrofina, Incorporated in accordance with an undertaking in those hearings that comments on S. 1853 would be submitted for the record.

Ad valorem duty on foreign repairs of U.S. ships (section 466 of the Tariff Act): effect of S. 1853. Section 466 of the Tariff Act of 1930 (19 U.S.C. section 1466) imposes a 50% duty upon certain foreign repairs to U.S. flag commercial vessels. The duty is assessed when a vessel arrives back in a U.S. port.

The duty applies no matter how many years the U.S. vessel was overseas and no matter how long ago the repairs were made. The purpose of this provision is to support the U.S. ship repair industry. There are several exceptions to the general rule of section 466. Emergency repairs are exempt from duty. Repairs to fishing boats, drilling vessels, certain barges, and research vessels, if the vessels are outside the U.S. for two years or more and if the repairs are not made in the first six months after the vessel leaves the U.S., are exempt from duty under an amendment added in 1971. S. 1853 would extend this second exemption to all vessels outside the U.S. for two years or more, if the repairs are not made in the first six months after the vessel leaves the U.S. and as long as the voyage overseas is not solely for the purpose of obtaining the repairs.

Impact of the ad valorem duty on American Petrofina, Incorporated. American Petrofina, Incorporated ("Fina") is a U.S. corporation based in Dallas, Texas with operations in many sectors of the petroleum and chemical industries. While a controlling interest in Fina is owned by Petrofina S.A., a Belgium-based petroleum and chemical company, Fina has substantial U.S. ownership and its stock is listed on the American Stock Exchange. Fina employs about 2,750 people in the U.S.

Fina charters two U.S. flag vessels, both of which, in recent years, were in continuous overseas service for five years or more. The vessels underwent repairs while overseas. At the or more. The vessels underwent repairs while overseas. At the time, the only U.S. drydocks which could have accommodated these ships were tied up with other work for months at a time. Had these drydocks been available, the cost of doing the repair work in the U.S., not including the cost of taking the vessels out of service and bringing them back to the U.S., would have been about three times the cost of doing the repair work overseas. At the end of their foreign operations, these ships returned to serve U.S. markets. Upon return, they were assessed with duties of over $1 million each, which were paid in 1982 and 1983. (The average duty for all returning vessels in 1977-82 was under $5,000.) The liability of these vessels for these duties is now the subject of an action in the U.S. Court of International Trade.

Impact of the ad valorem duty generally. Tariffs have almost no impact on where ships are repaired, since the cost of sailing an unloaded ship back to a yard in a country where repairs are not dutiable is almost always greater, often by hundreds of thousands of dollars, than the duty saved. Operators of foreign flag ships, who can repair anywhere in the world, spend $750 million each year in U.S. shipyards for just this reason. Under these circumstances, the ad valorem duty has two effects: to impose a penalty tax, raising a tiny amount of revenue, on foreign repairs, and to impose a burden on the ability of the U.S. flag merchant fleet to compete. The adoption of S. 1853, providing a partial exemption from the duty, will significant cost to the federal government. The logic of this position has been broadly recognized by the Administration, which has proposed to repeal the duty entirely. In hearings before the Committee on Ways and Means on a House bill similar to S. 1853, on April 27 and May 10, 1983, the Administration expressed no opposition to the bill, H.R. 2381, although the Administration later criticized the bill as being too restrictive to be of substantial benefit to the U.S. flag merchant marine and reiterated its desire for complete repeal of the duty on foreign ship repairs.*/

No significant adverse impact on U.S. customs revenues. Average revenues from the ad valorem duty on all dutiable repairs during 1978-82 were $5.34 million per year. S. 1853 would exempt some repairs from duty and thus would result in a revenue loss of perhaps $2 million annually.

No adverse impact by S. 1853 on the U.S. ship repair industry. About $1.5 billion worth of repairs to U.S. and foreign commercial ships will be done by the U.S. ship repair industry in 1983, generating about $300 million in profits.

By contrast, the amount of foreign repairs subject to duty in 1983 will be about $22 million, or about 1 1/2% of the U.S.

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*/ See Letter, Sherman E. Unger, General Counsel, Department of Commerce, June 8, 1983.

repair industry's volume. S. 1853 would exempt from duty only a fraction of this 1 1/2%, representing, in future years, only a few million dollars of repairs annually. These would be repairs which would not be done in the U.S. in any event, as the Committee on Finance and the Committee on Ways and Means have recognized in approving the 1971 amendments to section 466.**/

The proposed bill would eliminate a burden on the U.S. merchant marine and would have no adverse impact on the U.S. ship repair industry. American Petrofina, Incorporated supports the enactment of S. 1853.

STATEMENT
OF
BASF WYANDOTTE CORPORATION
in support of S1476, a bill
for the temporary suspension
of duty on 6 Amino-1-Naphthol-
3-Sulfonic Acid

BASF Wyandotte Corporation is a manufacturer and marketer of a wide range of chemicals including pigments, dyestuffs, polymers, herbicides, vitamins and industrial chemicals. The company's headquarters are located in Parsippany, New Jersey and it has manufacturing sites at Rensselaer, New York, Washington and South Brunswick, New Jersey, Charlotte, North Carolina, Spartanburg, South Carolina, Huntington, West Virginia, Wyandotte, Troy and Holland, Michigan, and Geismar, Louisiana.

BASF Wyandotte Corporation supports S1476, which provides for a three year suspension of duty on the importation of this chemical.

6 Amino-1-Naphthol-3-Sulfonic Acid, also known as J Acid, is a chemical used extensively as an intermediate for azo dyestuff manufacture with major uses in paper and cotton products. The last U.S. producer was American Color and Chemical Corporation, which discontinued production in 1981. Current sources of supply are from Italy, West Germany, Japan and China (People's Republic). Total imports in 1981 were reported to be 815,000 pounds by the United States International Trade Commission.

J Acid is used extensively in the manufacture of dyes used for coloring paper products, cotton, viscose and fiberglass. The primary paper usages include bathroom tissues, towels, napkins, facial tissues, stationery and business forms.

PAGE 2
STATEMENT-BASF WYANDOTTE CORP.
6 Amino-1-Naphthol-3-Sulfonic
Acid (J ACID)

J Acid is used directly or by conversion to J Acid urea or Phenyl J Acid to make dyes for the uses indicated. The more significant products used for paper in the U.S. for domestic and export sales include: Direct Red 72, 102, 236 and 254, Direct Orange 102 and Acid Red 137. Some of the six domestically produced products also compete against related dyes currently being imported, including Direct Red 239 and Direct Orange 118.

In the cotton and viscose area, the major U.S. products include Direct Red 23, 24, 72, 80, 81 and 83, Direct Orange 26 and Acid Red 137. Based on USITC data, these uses accounted for more than 3.3 million pounds of production in 1981 and estimated sales over $10.7 million.

Dyestuffs products based on J Acid are produced by at least ten domestic manufacturers. Imports of J Acid-related dyes totaled over 130,000 pounds in 1981 and are increasing. In addition to sales in the United States, there are also export sales from domestic producers who compete against foreign producers. Elimination of the duty would thus benefit a wide spectrum of the dyestuffs industry.

BASF Wyandotte Corporation urges the Senate Finance Committee to approve S1476.

Litton CLIFTON PRECISION

Marple at Broadway. Clifton Heights. Pennsylvania 19018 215 622-1000

20 October 1983

Senator Robert Dole
Washington, D.C. 20510

Subject : S1524
Reference: 1) Clifton's Letter, CJS 7-3:058, dated 14 July 1983
2) Press Release 83-124

Dear Senator Dole,

In our letter of 14 July we requested the opportunity to testify against passage of S1524, a measure which would temporarily suspend all import duty on parts of certain spindle motors suitable for computer memory disc drives. Your press release, requesting comments upon the bill, provides this opportunity to reiterate our steadfast opposition to it.

To begin with, the very premises upon which S1524 is based, namely that the measure is non-controversial, that it is burdensome to no American firm, that no American firm manufactures such items and, most importantly, that no American jobs will be jeopardized by its passage, are all false.

Its passage will, indeed, place American jobs at risk: jobs that are real: jobs that exist now and not just jobs in the future.

Our company has invested over $1,000,000. in time, tooling and equipment to develop a viable market position in the spindle motor market. That investment has led to contracts with major computer and computer peripheral manufacturers that approach $2,000,000. for the same products which S1524 proposes to exempt. Those contracts are now being fulfilled by approximately 50 engineering and production workers at our facility in Murphy, N.C. If S1524 is enacted we will not be able to compete for follow-on business in this market which experts predict will grow at the rate of 250% per year. Those 50 jobs will quickly disappear from a locality, Cherokee County, that can ill afford a higher rate of unemployment.

Your colleagues in the House have postponed mark-up of the companion bill,HR1410, pending a full investigation of its potentially disastrous effects. We urge the Senate Finance Committee to at least do the same.

Respectfully,
CLIFTON PRECISION
Litton Systems, Inc.

Charles J Scalies

Charles J. Scalies
Director of Contracts

HR 1410 IMPERILS AMERICAN JOBS

Jobs of workers at Clifton Precision's manufacturing facilities in Clifton Heights, Pa. and Murphy, N.C. will be lost if HR 1410 is enacted. The bill erroneously presumes there is no viable American producer of the products for which it proposes a two-year suspension of import tariffs.

Clifton Precision has made a significant investment of time, talent and funds to design, develop and tool precisely those types of motors that are the subject of this bill. As we understand HR 1410, the tariff moratorium would apply to parts used exclusively in permanent magnet, brushless, electronically commutated, DC spindle drives for computer memory discs and which are rated at less than one-tenth HP. These are exactly the kind of motors that we are now manufacturing for most of the major computer firms.(Please see the attached Technical Bulletins)

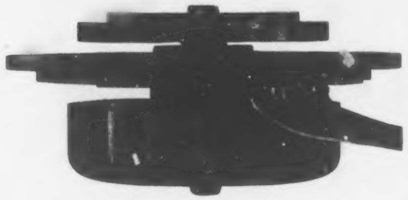
Not only do we manufacture the entire unit(s) domestically but we also have established market positions as a supplier for completed motors and motor parts. Therefore, if this tariff windfall is granted to foreign sources our competitive position will be prejudiced and our worker's jobs threatened.

The 600 workers at our Clifton Heights, Pa. plant and the 450 workers at our Murphy, N.C. plant urge the defeat of HR 1410. We apologize for the eleventh hour timing of this appeal, however we only first became aware of HR 1410 on Thursday 2 June, 1983.

Bulletin JDBH-3250

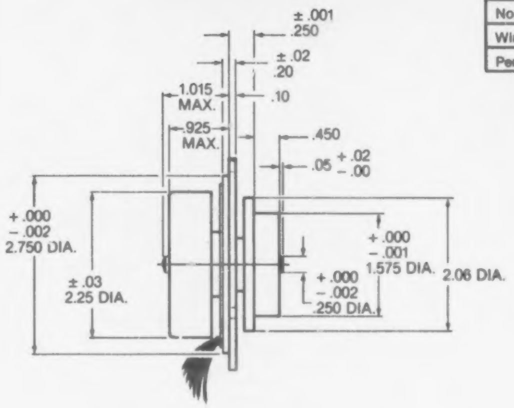
CLIFTON PRECISION®

BRUSHLESS DC SPINDLE MOTOR



Specifications P/N JDBH-3250

Characteristics	Units	−2
Rated Voltage	Volts	12
No Load Speed	R.P.M.	4700
Torque Sensitivity	Oz.-In./Amp.	3.4
Back EMF	Volts/Rad./Sec.	.024
Phase Resistance	Ohms	2.1
Motor Constant	Oz.-In./ $\sqrt{\text{Watts}}$	2.3
Rotor Inertia	Oz.-In. Sec.^{2}	.008
Weight	Oz.	8
No. of Poles	8 (Ceramic #8)	
Winding	3 phase, Wye connected	
Performance at Room Ambient		


± .001
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.10
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2.750 DIA.
± .03
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+ .000
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+ .000
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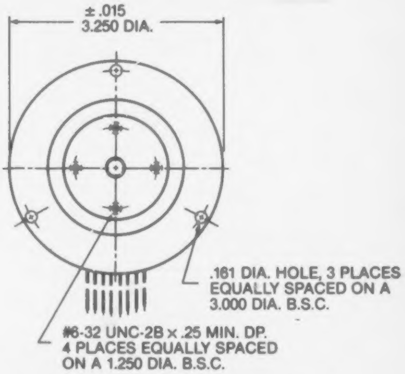
± .015
3.250 DIA.
.161 DIA. HOLE, 3 PLACES
EQUALLY SPACED ON A
3.000 DIA. B.S.C.
#6-32 UNC-2B x .25 MIN. DP.
4 PLACES EQUALLY SPACED
ON A 1.250 DIA. B.S.C.

DESCRIPTION

The Clifton JDBH-3250 series is a low-cost brushless DC spindle drive for 5¼ inch Winchester memory disks. It features light weight, compact size and low profile with a choice of hubs for one, two, or three disks. Non-repetitive shaft runout is under 100 millionths and magnetic liquid seals are standard.

The JDBH motor uses eight ceramic magnet poles and a unique three-phase fractional slot armature winding for improved efficiency and high accelerating torque. The unit includes three Hall-effect devices for use in DTL, RTL, TTL, or MOS commutation logic circuits. Windings and hub configuration can be modified to suit individual requirements.

CLIFTON PRECISION®
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TWX 510-669-9782

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STATEMENT
# of the
COLUMBUS FOUNDRIES, INC.

To The
SUBCOMMITTEE ON INTERNATIONAL TRADE
COMMITTEE ON FINANCE
UNITED STATES SENATE

IN SUPPORT OF S. 1808

October 25, 1983

This statement in support of S. 1808 is offered by Columbus Foundries, Inc., of Columbus, Georgia. The statement was prepared by Sam Eskew, Sales and Marketing, Columbus Standard, Inc., Water Works Equipment Division -- a subsidiary of Columbus Foundries, Inc.

Columbus Foundries is an international corporation headquartered in Columbus with operations in Virginia, England and Germany. We provide ductile iron castings to a variety of industries including automotive, agricultural, heavy equipment, construction, water works and utilities. Columbus Standard produces and sells certain pipe fittings which are influenced by S. 1808.

Cast fittings from Columbus Standard are used in water treatment and distribution, in fire protection systems, in industrial plants, and in gas and petroleum pipelines. All applications require a high degree of product reliability.

End users of our products are private companies, local governments and utilities, private utilities, and land developers. Over the past few years, many of these people have expressed a concern over the prevalence of imported pipe and pipe fittings and a strong desire to buy only pipe and pipe fittings made in the U.S.A.

Their reasons for wanting to buy American made pipe and pipe fittings are numerous. Some feel the American made products have value added because they provide jobs for fellow American citizens and tax revenue for the government. Some simply feel it is patriotic to buy American. In our estimation, the most important reasons for buying American pipe and pipe fittings are quality assurance and traceability.

These products are used, as previously mentioned in applications where potential loss of life or property is tremendous should a failure occur. A failed fire protection system -- a ruptured natural gas line -- a burst watermain -- these possibilities demand that a manufacturer be available to stand by its products.

Since nearly all piping products are sold through distributors and agents, it is possible, for example, for a city water board to contract with a local supplier for what they believe are American made goods only to have imported un-marked castings delivered into their stock. Then, should a failure occur, they would not know in which country the product was made -- much less the name of the manufacturer. Assessment of product liability is practically impossible.

The fact that iron and steel pipe and pipe fittings are exempted from the normal requirements for country-of-origin markings is unnecessary and unjustified. The history of the "J" list, which is the list of products exempted from markings, is obscured by time. It was established in the 1930's as part of the Tariff Act and has stood unchanged ever since. Of all the 100 odd items on the "J" list, pipe and pipe fittings are unique. The others are either difficult or impossible to mark due to their size or material nature. Iron and steel pipe and pipe fittings are both easily and cheaply marked. Actually, there is an exception to the exception, because iron soil pipe is not exempted and must be marked. The purpose behind the inclusion of these products on the "J" list is something at which we can only guess.

On the other hand, the reasons for requiring markings are good ones: to permit an informed decision by American users, and to provide traceability in the event of failure. The General Agreement on Tariffs and Trade provides for country-of-origin markings for these very reasons. It cannot be claimed that this is an unusual requirement that would cause our trading partners to react negatively. In fact, to remove steel and iron pipe and pipe fittings from the "J" list will work a hardship on no one while providing a service to the many Americans who now find it frustrating that they don't know exactly what they are buying or using, or who have problems with product failures.

Naturally Columbus Standard and other American pipe or pipe fittings manufacturers stand to benefit from the passage of S. 1808. However, our self interest does not detract from the arguments offered in the public interest. Some people have accused this legislation -- both in S. 1808 and H.R. 1986 -- of being protectionist. Nothing could be further from the truth.

The cast metals industries of the United States are suffering from unfair trade practices such as dumping, unrealistic financing, and government subsidies, and thus do need help from the Congress. However, S. 1808 does not even attempt to address these issues and should not be branded as a protectionist trade bill.

As an international corporation, we at Columbus Foundries promote international trade and wish to do nothing to harm the development of the poorer nations of the world. In the case of S. 1808 we have merely the correction of an apparent oversight, existing since the 1930's, that has, perhaps innocently, permitted abuse of this country's open door trade policy.

I urge you to favorably consider S. 1808.

REBUTTAL TESTIMONY OF

CYCLE PARTS & ACCESSORIES, INC.

C.P.A.A.
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Thomas C Nestrud

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Merrill E Bruce
John Clark
John Auerbach, **Manager**
Robert Auerbach **General Counsel**

October 27, 1983

The Honorable John C. Danforth, Chairman
Subcommittee on International Trade
SD-221 U.S. Senate

Re: Section 211A - H.R. 3398 (S 1977), S.722

Dear Senator Danforth:

In their testimony before the International Trade Subcommittee on October 21, 1983, the Huffy Corporation raised the issue of its "compromise proposal." We ask that the Subcommittee include this letter in the record as rebuttal.

Huffy Corporation stated that it has made a compromise proposal in the form of "a limitation on the use of the subzone to eliminate any incentive for Huffy to increase its bicycle parts imports." They further stated that "some bicycle parts producers support this compromise proposal."

The Cycle Parts and Accessories Association is composed of the leading domestic producers of bicycle components, with 26 members located in 12 states (California, Connecticut, Florida, Illinois, Indiana, Kentucky, New York, Ohio, Oregon, Pennsylvania, Tennessee and Wisconsin.) We are aware of no bicycle component manufacturer who supports the Huffy proposal.

Attached as Exhibit A is a duplicate, originally signed copy of a letter dated July 8, 1983 from the CPAA President to counsel for Huffy clearly stating our membership's unanimous rejection of the proposal. If any parts manufacturer in fact supports the Huffy proposal, we feel confident that such support is either based on a lack of understanding or on a fear of losing Huffy's patronage. Please remember, Huffy is our members' largest customer, actual or potential. It is very difficult for our members to oppose Huffy and we would not do so if we had any choice. Indeed, our desire to reach a reasonable compromise is the basic reason why the bills before your Subcommittee will allow Huffy full benefits of foreign trade subzone status for exports, a stated goal of the Huffy subzone application.

C.P.A.A.—Your Partners in Bike Progress

The Honorable John C. Danforth, Chairman
October 27, 1983
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Our members rejected the Huffy proposal because:

(1) It is unenforceable;

(2) It creates a disincentive for Huffy to purchase its parts domestically;

(3) It would allow Huffy to double its parts imports and yet pay less tariff than they presently pay.

(4) The proposal is open to manipulation, through timing of entry of dutiable versus duty-free parts;

(5) It creates a Damocles sword which Huffy can hang over the heads of individual parts manufacturers by threatening to source products abroad; and

(6) It will undermine the competitive position of the rest of the domestic bicycle industry.

That Huffy feels compelled to show some desire to compromise even though that compromise is only symbolic, as explained above, demonstrates that Huffy recognizes that their foreign trade subzone will cause grievous injury to the domestic parts producers. Please, do not let that injury occur. We urge you to report S.722 or section 211 (a) of H.R. 3398 (Senate Companion Bill S.1977) favorably.

Sincerely yours,

John Auerbach

John Auerbach
Executive Director

JA:afh

STATEMENT IN OPPOSITION TO S.1636
BEFORE THE SUBCOMMITTEE ON INTERNATIONAL TRADE
SENATE FINANCE COMMITTEE

SUBMITTED BY NATHAN HAYWARD, III
DIRECTOR, DELAWARE DEVELOPMENT OFFICE
ON BEHALF OF THE STATE OF DELAWARE
October 31, 1983

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

This statement is submitted on behalf of the State of Delaware, which strongly opposes S.1636 and any other special interest legislation introduced before Congress to circumvent the purpose and function of Foreign Trade Zones. Essentially, S.1636 will remove incentives to manufacture single strength orange juice from frozen concentrate in a Foreign Trade Zone.

The State of Delaware is presently awaiting approval of its application from the Foreign Trade Zone Board to establish a Foreign Trade Zone. The submission of this application resulted from the willingness of several U.S. manufacturers to set up operations within a Foreign Trade Zone located in Delaware. Simply, Delaware views the implementation of its Foreign Trade Zone as a critical element in its long-term plan to reverse the recent trends of declining manufacturing employment in the State.

During the past decade, Delaware has experienced a dramatic shift away from blue collar to white collar jobs. This shift resulted in the loss of 3,252 skilled and semiskilled jobs in the State's largest County between 1970 and 1980--a staggering 20 percent decline. Designation of the Foreign Trade Zone will help to reverse these trends through the establishment within the Zone of manufacturing facilities which utilize significant amounts of foreign merchandise in their production operations.

Delaware is extremely concerned that the value of its Foreign Trade Zone as a vitally important economic development tool will be seriously eroded over time by the passage of special interest legislation such as S.1636. The real job creation potential of a Foreign Trade Zone is realized with the establishment of manufacturing operations. Special interest initiatives such as S.1636 can step-by-step destroy the ability of a Foreign Trade Zone to attract manufacturing firms. Perhaps more seriously, passage of these initiatives creates a chilling effect on the Foreign Trade Zone program. They discourage companies from making major investments in plant and equipment in Foreign Trade Zones because there is no certainty that operations permissible today will be permissible in the future.

Although passage of S.1636 will not prohibit the ability of firms to manufacture single strength orange juice from frozen concentrate in a Foreign Trade Zone, it will effectively eliminate any economic incentive to do so. The legislation proposes to amend the present tariff schedules by changing the rate of duty assessed on single strength orange juice processed from frozen concentrate from 20 cents per gallon to 35 cents per gallon. These rates were established as part of tariff concessions negotiated by the United States with its trading partners. As long as the tariff differential exists, manufacturers can justify the capital investment required to build and operate a physical plant in a Foreign Trade Zone at locations near their markets because these investments can be recovered through the payment of a lower tariff on the product withdrawn from the Zone. The sole intent of this legislation is to discourage the establishment of plants at locations in Foreign Trade Zones in the northeast and other regions of the country.

Not only will S.1636 undermine the credibility of the Foreign Trade Zone Program and inhibit the ability of Delaware and other states to attract orange juice processing facilities, it also adds an unnecessary additional tariff protection for an industry that is already one of the most protected in the United States. The present duty on frozen concentrated orange juice is 35 cents per single strength gallon. This amounts to an ad valorem tariff under the current prices of between 40 and 45 percent. The duty rate for frozen concentrated orange juice compares with the duty rate per gallon of 10 cents for lime juice, 5 cents for pineapple concentrate, 3.8 cents for prune juice, no duty for apple and pear juice. The 20 cents per gallon duty rate assessed on single strength juice from concentrate is still one of highest rates assessed against any imported fruit juices.

Failure to pass S.1636 will not encourage additional imports of frozen concentrated orange juice, nor will it result in suppressing the price that the orange grower receives for his box of oranges. However, passage of S.1636 will insure the continued flow of imported frozen concentrated orange juice through Florida where most of the processing plants are now located. Not only is it profitable to have the juice flowing through Florida ports, but the State also profits by imposing an import tax on frozen concentrated orange juice in order "equalize" the exise tax paid by processors on local fruit. Last year, the State tax on imported frozen concentrated orange juice represented receipts by the Florida Citrus Commission of approximately $9 million.

The sponsors of S.1636 argue that the present tariff schedule suppresses the price of "normal U.S. production." If price suppression does occur due to operations within Foreign Trade Zones, protection is already provided under Foreign Trade Zone regulations. 15 CFR, Section 400.807 provides that the Foreign Trade Zone Board may order the exclusion from the Zone of any goods or process of treatment that in its judgment is detrimental to the public interest. If a domestic group has a complaint that it is being harmed by operations in a Foreign Trade Zone, it can raise that complaint with the Foreign Trade Zone Board. Congress should not legislate changes in internationally negotiated tariff rates when the remedy for a problem already exists.

Furthermore, Congress should not make piecemeal changes which affect the Foreign Trade Zone program at this time. Since, at the request of Congress, the International Trade Commission and the General Accounting Office are now conducting studies of the Foreign Trade Zone Program. The results of these studies should be reviewed prior to the enactment of legislation that effectively changes the program.

The State of Delaware opposes S.1636 and other special interest legislation which undermines the purpose of the Foreign Trade Zone program. We urge the Committee to recommend against passage of the legislation.

Before The
SUBCOMMITTEE ON INTERNATIONAL TRADE
of the
SENATE COMMITTEE ON FINANCE

In the Matter of Hearings on Miscellaneous Tariff Bills October 21, 1983	S. 1518; Tubeless Tire Valves (Duty Increase)

STATEMENT IN OPPOSITION TO S. 1518

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October 21, 1983

Prepared for EHA Ventilfabrik Wilhelm Fritz KG of Muehlheim (Main) West Germany by Barnes, Richardson & Colburn, Washington, D.C. 20006 & N.Y.C. 10016, a registered foreign agent under the Foreign Agents Registration Act. This statement and the Registration Statement of Barnes, Richardson & Colburn are on file with and may be inspected at the U.S. Department of Justice, Washington D.C. Registration under the Act does not indicate endorsement by the U.S. Government.

Before The
SUBCOMMITTEE ON INTERNATIONAL TRADE
of the
SENATE COMMITTEE ON FINANCE

In the Matter of Hearings on Miscellaneous Tariff Bills October 21, 1983	S. 1518; Tubeless Tire Valves (Duty Increase)

STATEMENT IN OPPOSITION TO S. 1518

INTRODUCTION

This statement is submitted by counsel on behalf of EHA Ventilfabrik Wilhelm Fritz KG, Postfach 1261, 6052 Muehlheim (Main) West Germany (EHA) pursuant to the notice published by the Senate Finance Subcommittee on International Trade under date of October 7, 1983 (Press Release No. 83-189).[1] EHA respectfully opposes enactment of S. 1518, a bill to increase the duties on tubeless tire valves.

1/Appropriate registrations of counsel are on file with the clerks of the House and Senate under the Lobbying Act, and with the Department of Justice under the Foreign Agents Registration Act of 1938, as amended.

The Product and Its Market

Tubeless Tire Valve production is divided into two broad categories, "snap-in" valves and "clamp-in" valves.

Snap-in TTVs consist of a cylindrical brass tube into which is inserted a needle valve core designed (a) to permit the free flow of air when properly depressed, and (b) to prevent the escape of such air when returned to the original inert position. The entire structure is encased in welded rubber with a large bulbous knob at one end, the opposite end of the brass tube being exposed and machined to accommodate a screw-on plastic or metal cap; the purpose of the large flange or knob at one end is to ensure a sufficiently secure positioning so that the valve upon insertion into the tire rim will be capable of withstanding the necessary air pressure forces without "blowing out".

By contrast, clamp-in TTVs are comprised of two independent components which are joined to one another after placement in a motor vehicle wheel, such that the entire valve is "clamped" in place by a screw-on action. Valves of this type are generally required for heavy truck and equipment purposes, whereas the snap-in variety, described above, are used only in passenger vehicle and light truck applications.

For import identification purposes, tubeless tire valves are included in item 692.32 of the Tariff Schedules of the United States (TSUS), a residual "basket" category encompassing several types of motor-vehicle parts, and are dutiable at the following _ad valorem_ rates applicable under the duty rate schedules which resulted from the Multilateral Trade Negotiations pursuant to the Trade Act of 1974 (P.L. 93-618, 19 USC 2101), and ratified under the Trade Agreements Act of 1979 (P.L. 96-39, 19 USC 2501):

TSUS Item		1980	1981	1982	1983	1984	1985	1986	1987 and thereafter
	Chassis, bodies (including cabs), and parts of the foregoing motor vehicles:								
	Other:								
692.24	Cast-iron (except malleable cast-iron) parts, not alloyed and not advanced beyond cleaning, and machined only for the removal of fins, gates, sprues, and risers or to permit location in finishing machinery								
	Other:								
692.29	Automobile truck tractors, if imported without their trailers								
692.31	If Canadian article (see headnote 2 of this subpart)................								
	Gasonline fueled								
	Other								
692.32	Other	3.9%	3.8%	3.7%	3.6%	3.4%	3.3%	3.2%	3.1%*
	Other								

*All rates are ad valorem.

Exerpted from: Summary of Trade and Tariff Information, Certain Motor-Vehicle Parts, USITC Pub. No. 841 (Aug. 1982)

Tubeless tire valves are manufactured and assembled by seven establishments in the United States, and are imported from several countries including, at present, West Germany, Italy, Turkey, Japan and Romania.[2] The principal foreign supplier is EHA Ventilfabrik of West Germany, whose annual imports have accounted for approximately 11 million units, representing about 7% of U.S. domestic consumption.

The U.S. market for tubeless tire valve products consists of automobile manufacturers (original equipment manufacturers = "OEM market") and wholesalers, distributors, jobbers, and retailers (the "aftermarket"). While American manufacturers sell to both the OEM market and the aftermarket, EHA's participation in the United States has been, and continues to be, limited to the aftermarket.

Import Investigations Regarding TTVs

During the past two decades some seven investigations have been brought against imports of tubeless tire valves by Nylo-Flex of Mobile, Alabama one of the smaller U.S. manufacturers. The first two charges against imports were dismissed by the U.S. Customs Bureau with records, if any, buried in the archives. There followed five cases of record since 1966.

-- An investigation was instituted in 1966 under the Antidumping Act of 1921 against tubeless tire valves (TTVs) from Germany but was discontinued in 1967.[3] EHA committed itself to continue to pursue fair value pricing policies, a practice it has always followed, and a practice EHA scrupulously kept.

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[2] /Source, USITC Staff Report: Tubeless Tire Valves, Report tot he President on Investigation No. TA-201-46, USITC Pub. 1286 (Sept. 1982).

[3] /32 Fed. Reg. 7293, May 16, 1967.

-- Another antidumping investigation, for which records are, available was filed against imports from Italy in 1967 and ended in 1968 with a determination of sales at not less than fair value.[4]

-- The next antidumping case involved tubeless tire valves from Canada. This investigation resulted in a determination of no injury by the U.S. Tariff Commission.

-- A further antidumping investigation was triggered by a Nylo-Flex complaint against EHA in 1981. Again, Nylo-Flex's allegations were disproved by the DOC preliminary and final determination of no sales at less than fair value.[5]

-- The most recent investigation followed six months after the conclusion of the 1981 dumping case against EHA and was brought as an "escape clause" investigation under section 201 of the Trade Agreements Act of 1974, based on a petition by Nylo-Flex. In large measure, the allegations focused on imports from the principal supplier, EHA of West Germany.[6] This investigation resulted in a determination by the U.S. International Trade Commission that tubeless tire valves are not being imported into the

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4/33 Fed. Reg. 3652, Mar. 7, 1968.
5/46 Fed. Reg. 58133, Nov. 30, 1981.
6/Tubeless Tire Valves, TA-201-46 at A-9 (Sept. 1982).

United States in such increased quantities as to be a substantial cause of serious injury.

In summary, the allegations of Nylo-Flex that imports, especially those of EHA, were unfairly priced, unfairly competed, or injured the United States industry were consistently rejected by the appropriate U.S. government agencies who investigated these charges. These allegations of Nylo-Flex, which were proven groundless in each case, have resulted in great cost and detriment to EHA, to the extent that the use of U.S. import relief statutes by Nylo-Flex must be considered an abuse, especially in light of the circumstance that investigations can be and have been initiated at little or no expense to Nylo-Flex while entailing substantial necessary costs for defense on the part of EHA. The introduction of the present legislative proposal, S. 1518, which referenced Nylo-Flex extensively, must therefore be considered a continuation of the attempts at harassing imports, especially EHA's products. As every investigative record demonstrates, there is no economic or U.S. legal justification for the imposition of increased tariffs.

S. 1518 Should Not Be Enacted

Upon introduction of S. 1518 it was suggested in the Congressional Record 127 Cong. Rec. S. 8916-18 (daily ed. June 22, 1983) that imports of tubeless tire valves compete unfairly in the U.S. market. While proponents of S. 1518 are forced to admit that import prices "cannot, technically under existing law, be legally proven as having been dumped", there are statements about "importerrigged prices" and that "West Germany is by far the largest exporter of these valves to the U.S. market and the biggest culprit in this unfair pricing policy. . . ." There is no basis or justification for these statements. As was brought out in the most recent U.S. International Trade Commission investigation in the context of the "escape clause"[7], Nylo-Flex, the protagonist of unfair import allegations, was most severely affected by the fact that the large domestic producers of OEM-market valves had entered the "aftermarket" which Nylo-Flex serviced at a time when OEM sales fell off due to a decline in U.S. automobile production. Moreover, EHA prices have consistently been found to be fair, and the reason stated by many U.S. purchasers of valves indicated that they purchased EHA's tubeless tire valves because of the recognized high quality of EHA's product and the desire to have multiple sources of supply, a prudent business technique.

The proposed duty increase to 15% *ad valorem* would raise the currently effective 3.6% *ad valorem* rate by more than 300%. In terms of the final rates negotiated under the "Tokyo Round" to take effect in 1987 and thereafter, the proposed 15% rate would constitute a near quintupling of duties. Such a rate will have a disastrous effect upon purchasers relying on quality tubeless tire valves from West Germany and would act as an effective exclusion of tire valves exported from Germany to the U.S. market.

7/*Tubeless Tire Valves*, TA-201-46, USITC Pub. 1286 (Sept. 1982).

Such a result would be contrary to every principle of trade policy which has been announced by the Congress and the U.S. Government under the Trade Act of 1974, the Trade Agreements Act of 1979, and which has served as the basis for multilateral trade negotiations. America's trading partners would have instant rights to protest the proposed duty increase before the General Agreement on Tariffs and Trade; they could and undoubtedly would demand compensation, or would be entitled to take retaliatory action. At a time when the United States is going forward with much-needed programs for trade and export expansion, duty increase actions such as this and the negative results thereof are not in the best interest of the United States or of its industry.

While the tubeless tire valve industry--in the universe of all manufactures and commodities in international trade--is relatively modest in size, the proposed action would serve as a signal to West Germany, and to the world, that the promises of the United States made during trade negotiations are worthless and, worse, such action would serve to undermine the entire international trade position of the United States. The proffered legislation would invite particularly bitter reaction in light of the fact that there is on-the-record proof, in the most recent import investigation triggered by Nylo-Flex, that there is no justification for anti-import measures under the "escape clause" of the General Agreement on Tariffs and Trade.

S. 1518 Would Have Detrimental Effects But No Beneficial Effects

S. 1518 proposes to provide a special "breakout" for tubeless tire valves from the "basket" category of automobile parts in which TTVs are now classified. Such a breakout would cause a substantial administrative burden on various Departments of the United States Government and on industry insofar as it will require the review, compilation, and reporting of commercial and international trade documents, invoices, and statistics. On the other hand, while the impact of the proposed duty rate would be signigicant for importers, effectively embargoing most imports from industrial countries such as Germany, the revenue effects would be negligible or possibly negative if importations decline substantially or cease. Moreover, the effect on American consumers, particularly those in the aftermarket, that is, individual automobile owners and their repairmen, would be to increase the costs or to impair the competitive availability of quality tubeless tire valves.

The United States industry, especially the manufacturers who sell to both the OEM market and the aftermarket, controls an overwhelming portion, (90%) of the U.S. market. With such market dominance, it is difficult to accept the proposition that the U.S. tubeless tire valve industry is about to relinquish its position or disappear from the market. It is known that some companies have made substantial capital investments in the TTV producing areas and they are effective competitors in both the American market and, through their foreign subsidiaries including affiliates in England and Germany, in international markets.

Summary

There is no economic, legal, or policy basis which justifies an increase in duties on tubeless tire valves to 15% *ad valorem*, or an abrogation of international commitments made by the United States during trade negotiations in which the U.S. made binding commitments for duty reductions, and received quid-pro-quo international trade concessions.

For foregoing reasons, S. 1518 should not be enacted. It is respectfully urged that the Subcommittee on International Trade of the Senate Committee on Finance report unfavorably on this proposal to the full Senate Committee on Finance.

Respectfully Submitted,
BARNES, RICHARDSON & COLBURN

By ______________________
Counsel for EHA Ventifabrik

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Gunter von Conrad
Of Counsel

October 21, 1983

UNITED STATES SENATE
COMMITTEE ON FINANCE
SUBCOMMITTEE ON
INTERNATIONAL TRADE

STATEMENT OF
FLORIDA CITRUS MUTUAL
IN SUPPORT OF
S. 1636, TO PROVIDE FOR
EQUITABLE TARIFF CLASSIFICATION OF
CITRUS PRODUCTS

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September 9, 1983

This statement is submitted on behalf of Florida Citrus Mutual ("FCM"), Lakeland, Florida, in response to the invitation for comments of the Subcommittee on International Trade, concerning miscellaneous tariff bills (Press Release No. 83-172). FCM strongly supports, and requests that the Subcommittee and the full Committee report favorably on S. 1636, a bill to provide for fair and equitable tariff classification of certain citrus products, and to close a "loophole" in tariff classification of imported citrus juice, which may cause serious damage to the United States citrus industry.

Florida Citrus Mutual is a cooperative association of citrus growers and processors, which represents more than 90 percent of the orange, grapefruit, and other citrus growers of Florida. The citrus industry is an extremely important segment of Florida's economy, accounting for over 30 percent of the $4 billion of Florida farm-gate receipts in 1981. There are an estimated 16,000 citrus producers in Florida, representing almost 20 percent of the 85,000-plus people directly employed in the Florida citrus industry in jobs ranging from harvesting to research.

Orange juice is presently imported into the United States under one of two tariff items:

(1) Item 165.30, Tariff Schedules of the United States: Not concentrated citrus fruit juice, other than lime, not mixed and not containing over 1.0 percent of ethyl alcohol by volume, dutiable at a rate of 20 cents per gallon; and

(2) Item 165.3540, Tariff Schedules of the United States: Concentrated orange juice, not mixed and not containing over 1.0 percent of ethyl alcohol by volume, dutiable at a rate of 35 cents per gallon.

Pursuant to headnotes to Subpart A, Part 12, Schedule 1 of the Tariff Schedules of the United States: "any juice having a degree of concentration of less than 1.5 (as determined before correction to the nearest 0.5 degree) shall be regarded as a natural, unconcentrated juice." (See Attachment 1.) Consequently, any imported orange juice having a degree of concentration of less than 1.5 (or 17.3° Brix)[1] at the time of entry may be imported as a not concentrated citrus juice, dutiable at 20 cents per gallon, while imported juice with a degree of concentration of 1.5 or greater (higher than 17.3° Brix) at the time of entry is classifiable as a concentrate and is dutiable at 35 cents per gallon.

S. 1636 will correct an inequitable development in tariff classification which has resulted from manipulation of imported orange juice concentrate in circumvention of the intended classification and duty rate applicable to concentrated orange juice. For many years there has been international trade in fresh orange juice, and more recently a growing volume of United States imports of concentrated product. Orderly-marketing practices in the United States have now been negatively affected by certain enterprising processors who have identified the above-referenced "loophole" in the Tariff Schedules of the United States, as amended. At the present time, importations of highly concentrated (65° Brix) orange juice are brought into U.S. Foreign Trade Zones (FTZs) for processing by blending and the addition of water, resulting in a reconstituted orange juice product (less than 17.3° Brix) which, upon withdrawal or entry into the U.S. Customs territory, is dutiable at 20 cents per gallon or less,[2] depending upon the tariff classification applied, rather than the 35 cents per gallon rate applicable to imported concentrates. There also have been efforts to use Customs bonded warehouses in a similar manner. Disputes involving processing in FTZs and Customs warehouses are currently under review at Headquarters, U.S. Customs Service. In addition to the foregoing, there are indications that concentrate may also be brought into Canada where there is no domestic citrus industry, and transformed at the border (adjacent to major U.S. marketing areas) into reconstituted products also entering the commerce of the U.S.A. at the lower rate of duty. Similar border operations exist in Mexico

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[1] "Degrees Brix" is a standard measure which represents the refractometric sucrose value of the juice, and reflects the amount of solids contained in the juice. Pursuant to Headnote 3(b) to Subpart A, Part 12, Schedule 1, TSUS, the Secretary of the Treasury is to determine "from time to time" the average Brix value of like natural unconcentrated juice in the trade and commerce of the United States. Currently, the average value for natural unconcentrated orange juice has been determined to be 11.8° Brix which, after correction to the nearest 0.5 degree of concentration, may be rated as high as 17.3° Brix to be considered unconcentrated (see Attachment 2).

2/If the level of concentration is less than the solids content of natural juice (11.8° Brix), the product may be classifiable as "fruit drink", rather than fruit juice, and is provided for under other provisions of the Tariff Schedules.

along the States of Texas, Arizona and California, other citrus-producing states.

The sale of reconstituted product subject to substantially lower duties has a severe price-suppressing effect in normal U.S. marketing channels. It must be stressed that the principal foreign suppliers of frozen concentrated orange juice to the United States follow usual procedures and enter the concentrated product at 35 cents per gallon and, as far as FCM is able to ascertain, do not engage in the above practices. However, the low value-added manipulation of the concentrated product to produce reconstituted juice and circumvent the intended classification for concentrate yields a large, inequitable duty savings in a highly price-sensitive market. The import sensitivitiy of the citrus industry was recently re-affirmed in a countervailing duty determination of the U.S. International Trade Commission, which found on July 11, 1983, that the domestic industry is threatened with material injury by reason of subsidized imports of frozen concentrated orange juice from Brazil.[3] In addition, the Trade Policy Staff Committee, chaired by the Office of the U.S. Trade Representative, has consistently declined to review petitions to add orange juice to the list of products eligible to receive duty-free treatment when imported from beneficiary developing countries under the Generalized System of

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3/Frozen Concentrated Orange Juice from Brazil, USITC Inv. No. 701-TA-184 (Final), Pub. No. 1406 (July 1983). The determination left in effect a suspension agreement whereby the Government of Brazil has agreed to impose an export tax to offset the amount of net subsidies received by Brazilian concentrated orange juice exporters. The current Brazilian export tax is 3.5 percent *ad valorem*, pursuant to a determination of the U.S. Department of Commerce.

Preferences, 19 U.S.C. §2461 et seq. These actions accentuate the sensitivity of the U.S. citrus industry and its vulnerability to disruptive market effects such as those which result from the unintended duty savings yielded by this tariff classification "loophole."

As a result of the foregoing, amendment to 19 U.S.C. §1202 is necessary to correct anomalous Customs treatment of increasing importations into the United States of orange juice concentrate products classified as "not concentrated" citrus juice under TSUS item 165.30, dutiable at 20 cents per gallon. The new provisions, as set forth in S. 1636, will reaffirm the intention of Congress that the lower rate of duty provided for in current TSUS item 165.30 is limited to fresh, natural orange juice, and orange juice with a level of concentration under 17.3° Brix (i.e., a degree of concentration of 1.5), rather than concentrated orange juice and reconstituted derivatives thereof. The amendment insures the integrity of the Tariff Schedules by providing for concentrates and their derivatives at the 35 cents per gallon rate of duty provided for in TSUS item 165.35.

The United States, under auspices of the General Agreement on Tariffs and Trade (GATT), has granted tariff concessions on "not concentrated" orange juice (item 165.30) under the assumption that this provision applies mainly to fresh, natural juice. However, since 1981, it has become increasingly apparent that imported orange juice in reconstituted forms has been classified as the equivalent of natural orange juice, thus taking advantage of lower U.S. tariff treatment for which no reciprocal concessions were received. This practice is contrary to Congressional intention to separately classify natural or single strength orange juices as a "not concentrated" product under item 165.30 at the specific rate of 20 cents per gallon, and to classify orange juice made from concentrate under item 165.35 at a specific rate of 35 cents per gallon.

The amendment will create a separate classification for unconcentrated orange juice, under TSUS item 165.27. This would not include juice made from a concentrated product with a degree of concentration of 1.5 or greater (as determined before correction to the nearest 0.5 degree). The result would be that orange juice imported as "not concentrated" would include only orange juice in its natural form, which is within the concentration tolerance set forth in headnote 4 for "natural unconcentrated juice." Imported orange juice which was made from a concentrate with a degree of concentration of 1.5 or greater (i.e., approximately 17.3° Brix) would be classified as "other", under new TSUS item 165.29, as would imports of concentrated orange juice.

The proposal in S. 1636 will not affect the classification and the duty status of any other fruit juices classified under Part 12 and Subpart A. It will not modify application of Headnotes 1 to 5 in Subpart A of Part 12, as to any non-citrus products. Further, implementation of this amendment will not affect the current tariff classification and present rates of duty applied to other imported citrus juice concentrate or fresh natural citrus juice of any kind. Accordingly, it is believed that enactment of the proposed new tariff items will have no effect on commercial balances of trade in citrus products and will therefore not require compensation payments to the trading partners of the United States.

FCM does not hereby suggest the necessity of protective provisions in an attempt to restrict trade in citrus juice. Nor does FCM suggest that tariffs should be increased. On the contrary, the domestic industry has historically committed substantial resources to worldwide market development for citrus juices, and this commitment has benefitted our trading partners as well as the United States industry. However, opportunistic manipulation of U.S. tariff classification provisions threatens to introduce increasingly disruptive influences into a highly sensitive market. The current tariff structure has functioned well, until recently, in assuring the availability of adequate supplies of orange juice for U.S. consumers from both domestic and import sources. The proposed amendment to the Tariff Schedules as set forth in S. 1636 is essential to close an anomalous classification loophole and reiterate the intent of Congress that concentrated juice, whether or not reconstituted, be classified under the appropriate provision.

For the foregoing reasons, Florida Citrus Mutual requests that the Subcommittee on International Trade and the Committee on Finance report favorably to the United States Senate on S. 1636.

Respectfully submitted,

FLORIDA CITRUS MUTUAL

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September 9, 1983

Attachment 1

G S P	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty		
					1	LDDC	2

PART 12. - BEVERAGES

Part 12 headnotes:

1. This part covers only products which are fit for use as beverages or for beverage purposes.

2. The standard for determining the proof of brandy and other spirits or liquors of any kind when imported is the same as that which is defined in the laws relating to internal revenue. The Secretary of the Treasury, in his discretion, may authorize the ascertainment of the proof of wines, cordials, or other liquors and fruit juices by distillation or otherwise, when it is impracticable to ascertain such proof by the means prescribed by existing law or regulations.

3. The duties prescribed on products covered by this part are in addition to the internal-revenue taxes imposed under existing law or any subsequent Act. The duties imposed on products covered by this part which are subject also to internal-revenue taxes are imposed only on the quantities subject to such taxes; except that, in the case of distilled spirits transferred to the bonded premises of a distilled spirits plant under the provisions of section 5232 of the Internal Revenue Code of 1954, the duties are imposed on the quantity withdrawn from customs custody.

4. Provisions for the free entry of certain samples of alcoholic beverages are covered by part 5 of schedule 8.

Subpart A. - Fruit Juices

Subpart A headnotes:

1. The products described in this subpart are covered herein whether or not containing ethyl alcohol, but any such products which are also described in subpart C or D of this part are classifiable in said subpart C or D.

2. For the purposes of this subpart, a concentrated juice may be in liquid, powdered, or solid form.

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty		
					1	LDDC	2
			Fruit juices, including mixed fruit juices, etc. (con.):				
			Not mixed and not containing over 1.0 percent of ethyl alcohol by volume (con.):				
	165.40		Grape........	....	25c per gal. 1/		$1 per gal. 1/
		20	Not concentrated........	Gal.			
			Concentrated:				
		40	Frozen........	Gal.			
		60	Not frozen........	Gal.			
			Pineapple:				
	165.44	00	Not concentrated, or having a degree of concentration of not more than 3.5 degrees (as determined before correction to the nearest 0.5 degree)........	Gal.....	20c per gal. 1/		70c per gal. 1/
	165.46	00	Other........	Gal.....	5c per gal. 1/		70c per gal. 1/
	165.50	00	Prune........	Gal.....	3.8c per gal. 1/		70c per gal. 1/
	165.55	00	Other........	Gal.....	3c per gal. 1/		70c per gal. 1/
	165.65	00	Mixed, not containing over 1.0 percent of ethyl alcohol by volume........	Gal.	The highest rate applicable to any component juice under the foregoing provisions 1/		The highest rate applicable to any component juice under the foregoing provisions 1/
	165.70	00	Mixed or not mixed, containing over 1.0 percent of ethyl alcohol by volume........	Gal.....	26c per gal. + $1.85 per proof gal. on the alcohol content 1/		70c per gal. + $5 per proof gal. on the alcohol content 1/
			Subpart B. - Non-Alcoholic Beverages				
			Subpart B headnote:				
			1. The provisions of this subpart cover only products fit for use as beverages, and do not apply to any product containing 0.5 percent or more of ethyl alcohol by volume or to any product described in subpart A of this part.				
A	166.10	00	All mineral waters, natural, imitation, or artificial........	Gal.....	1.5c per gal.		10c per gal.
A	166.20	00	Ginger ale, ginger beer, lemonade, and soda water........	Gal.....	1c per gal.		15c per gal.
A	166.30	00	Vegetable juices, including mixed vegetable juices........	Gal.....	1c per gal.		15c per gal.
A	166.40		Beverages, not specially provided for........	....	1c per gal.		15c per gal.
		20	Carbonated soft drinks........	Gal.			
		40	Other........	Gal.			

1/ Imports under this item may be subject to Federal Excise Tax (26 U.S.C. 5001 and 5041) as follows:
A) If containing distilled spirits, a tax of $10.50 per proof gallon and a proportionate tax at the like rate on all fractional parts of a proof gallon.
B) If containing wine, a tax of --
1) 17c per wine gallon on still wines containing not more than 14% of alcohol by volume;
2) 67c per wine gallon on still wines containing more than 14% and not exceeding 21% of alcohol by volume;
3) $2.25 per wine gallon on still wines containing more than 21% and not exceeding 24% of alcohol by volume;
4) $3.40 per wine gallon on champagne and other sparkling wines; and
5) $2.40 per wine gallon on artificially carbonated wines.

Note: For explanation of the symbol "A" of "A*" in the column entitled "GSP", see general headnote 3(c).

1202), shall show the following detailed information in addition to other required information:

(a) One of the following statements regarding each lot of cotton covered by the invoice:

(1) This is harsh or rough cotton under 3/4 inch in staple length;

(2) The staple length of this cotton is under 1 1/8 inches. (This statement is not to be used if subparagraph (1) of this paragraph is applicable);

(3) The staple length of this cotton is 1 1/8 inches or more and under 1 3/8 inches;

(4) This cotton is harsh or rough cotton (other than cotton of perished staple, grabbots, and cotton pickings), white in color, and has a staple length of 1 5/32 inches or more and under 1 3/8 inches;

(5) The staple length of this cotton is 1 3/8 inches or more and under 1 11/16 inches; or

(6) The staple length of this cotton is 1 11/16 inches or more.

(b) The name of the country of origin, and, if practicable, the name of the province or other subdivision of the country of origin in which the cotton was grown.

(c) The variety of the cotton, such as Karnak, Gisha, Pima, Tanguis, etc. (Sec. 481, 46 Stat. 719; 19 U.S.C. 1481)

§ 151.83 Method of sampling.

For determining the staple length of any lot of cotton for any Customs purposes, samples of the lot shall be taken in accordance with commercial practice.

§ 151.84 Determination of staple length.

The district director shall have one or more samples of each sampled bale of cotton stapled by a qualified Customs officer, or a qualified employee of the Department of Agriculture designated by the Commissioner of Customs for the purpose, and shall promptly mail the importer a notice of the results determined.

§ 151.85 Importer's request for redetermination.

If the importer is dissatisfied with the district director's determination, he may file with the district director, within 14 calendar days after the mailing of the notice, a written request in duplicate for a redetermination of the staple length. Each such request shall include a statement of the claimed staple length for the cotton in question and a clear statement of the basis for the claim. The request shall be granted if it appears to the district director to be made in good faith. In making the redetermination of staple length, the district director may obtain an opinion of a board of cotton examiners from the U.S. Department of Agriculture, if he deems such action advisable. All expenses occasioned by any redetermination of staple length, exclusive of the compensation of Customs officers, shall be reimbursed to the Government by the importer.

Subpart G—Fruit Juices

§ 151.91 Brix values of unconcentrated natural fruit juices.

The following values have been determined to be the average Brix values of unconcentrated natural fruit juices in the trade and commerce of the United States, for purposes of the provisions of schedule 1, part 12A, headnote 3, Tariff Schedules of the United States (19 U.S.C. 1202), and will be used in determining the dutiable quantity of imports of concentrated fruit juices, using the procedure set forth in headnote 4 of part 12A: [TD 74-41.]

Kind of fruit juice	*Average Brix value (degrees)*
Apple	13.3
Apricot	14.3
Bilberry (Whortleberry, Vaccinium Myrtillium)	13.4
Black currant	15.0
Blackberry	10.0
Black raspberry	11.1
Blueberry	14.1
Boysenberry	10.0
Carob	40.0
Cherry	14.3
Crabapple	15.4
Cranberry	10.5
Date	18.5
Dewberry	10.0
Elderberry	11.0
Fig	18.2
Gooseberry	8.3
Grape (Vitis Vinifera)	16.0
Grape (Slipskin varieties)	16.0
Grapefruit	10.2
Guava	7.7
Lemon	8.9
Lime	10.0
Loganberry	10.5
Mango	17.0
Naranjilla	10.5
Orange	11.8
Papaya	10.2
Passion Fruit	15.3
Peach	11.8
Pear	15.4
Pineapple	14.3
Plum	14.3
Pomegranate	18.2
Prune	18.5
Quince	13.3
Raisin	18.5
Raspberry (Red raspberry)	10.5
Red currant	10.5
Soursop (Guanabana, Annono Muricata)	16.0
Strawberry	8.0
Tamarind	55.0
Tangerine	11.5
Youngberry	10.0

Subpart H—Flat Glass

§ 151.101 Weighing of flat glass.

The net weight of flat glass dutiable on a weight basis under schedule 5, part 3B, Tariff Schedules of the United States (19 U.S.C. 1202), shall be ascertained by the district director in accordance with § 151.102 or § 151.103 whenever he is not satisfied with the accuracy of the weights shown on the invoice or packing list, and in any event from time to time on a spot-check basis.

PRESIDENT'S AWARD
for EXCELLENCE
in EXPORT SERVICE

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Robert H. Langner
West Coast Agency
Marine Exchange
San Francisco, CA

October 20, 1983

Senator John C. Danforth
United States Senate
Committee on Finance
Subcommittee on International Trade
SD-219 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Press Release 83-172

1. H.R. 3398
p. Section 201 (S.1430, S.1443)

Dear Senator Danforth:

Under date of August 31, 1983, we wrote to you concerning our support for Section 201 (S.1430 thereunder) of H.R. 3398, which "would amend section 313 (j) of the Tariff Act of 1930[which relates to same condition drawback]to provide certain technical changes and to provide specifically that packaging materials imported for use in performing incidental operations are eligible for same condition drawback". As we advised, S.1443 appears to be an incomplete version of S.1430 and as written would have no effect.

In our letter we also expressed our understanding that amendments may be offered to prevent misuse of the substitution privilege for same condition drawback purposes and to insure that the legislation accomplishes the legislative intent. We offered to assist in the development of language to achieve these ends.

In furtherance of these objectives, we therefore respectfully submit the attached proposed amendments to lines 1,2 and 3 on page 2 of S.1430 under Section 201 of H.R. 3398.

The explanation for these proposed amendments is as follows:

Page 2, lines 1,2 and 3: The proposed new language is intended to respond to possible objections to the legislation in its original form. These concerns, as we understand them, are:

1. The term "same kind and quality" could be deemed to be so broad that it might be subject to possible dispute between the Customs Service and claimants.

2. Claims by persons who never had the imported goods in their possession could be possible under the present language of the bill.

It is believed that the use of the term "commercially identical" (which would in itself require fungibility) speaks better to the intent of the legislation and should simplify the role of the Customs Service in administering the provisions of the statute.

Requiring possession of the imported merchandise by the drawback claimant prior to the export of the "commercially identical" goods would eliminate the possibility of an importer cooperating with another party, who was an exporter but who never had possesion of the imported merchandise, to enter into an arrangement for the collection of "same condition" drawbacks.

We also subscribe to and support the following suggested amendments which have been developed in connection with the proposed legislation by the Joint Industry Group (JIG), of which NCITD is a member association.

Page 2, line 15: The additional language corrects an apparent oversight in drafting S.1430.

Page 2, line 18: The suggestion for rephrasing is to avoid the problem which has arisen under 19 U.S.C. S 1313(j) as a consequence of the use of the term "incidental operations"; the quoted phrase is not defined in the statute or the legislative history and, accordingly, has been a source of uncertainty in the application of the statute. The proposed change to line 18 is intended to make it clear that merchandise which has not been manufactured or produced within the scope of 19 U.S.C. S 1313(a) or (b) remains eligible for drawback under S 1313(j) notwithstanding the fact that the performance of such an operation may result in minor "changes" in the form or condition of the merchandise in question.

Page 2, line 19: The addition of "adjusting" and "packing" are intended to further clarify the status of these operations for the purpose of S 1313(j).

Page 2, line 20: The repositioning of this language (from page 3, lines 1 and 2) should make it clear that the standard for ascertaining whether merchandise has been "changed in condition" for purposes of S 1313(j) is whether or not the operations which accomplish that "change in condition" are, or are not, cognizable under S 1313(a) or (b), and that no other subjective test is intended.

Page 2, line 24: Sub-paragraph (C) has been added in recognition of the fact that whereas some packaging materials, like bottles, undergo little or no change in condition as a consequence of being filled or otherwise employed as packing for other objects, and should therefore be eligiable for the payment of drawback under S 1313(j); certain packaging materials, as in the case of plastic films in bulk form, are necessarily "manufactured or produced" in the course of their adaptation to use as packaging, and are thus eligible only for drawback upon compliance with the terms of S 1313(a) or (b).

Page 3, line 4: The proposed addition to S. 1430 is to ensure that, as suggested above, the proper criteria for the allowance of drawback under S 1313(j) is an objective one, i.e., whether or not operations performed on particular merchandise render that merchandise eligible for the benefits of S 1313(a) or (b).

Page 3, line 7: Deletion of the word "packaging" in S. 1430 is suggested to avoid subjective judgments as to whether given product is or is not a member of an undefined class of "packaging materials". This change, together with that reflected on page 3, line 8, was prompted by the conclusion that a mere intent to use imported materials in a particular way should not be the determining factor upon which drawback is or is not allowed; the drawback statutes, generally, have been predicated upon proof of actual use.

Page 3, lines 7 and 8: The deletion shown in brackets on the proposed revision is necessary to conform to the changes made on page 2, lines 18 and 20, supra.

Page 3, line 9: The deletion of "imported" reflects comments received which suggest that imported "packaging" materials may be employed in the packing of articles manufactured or produced in the United States, as well as imported merchandise, and that there is no logical reason for denying the benefits of "Same Condition Drawback" to the former class. The addition of "or (2)" is necessary to ensure that materials used to pack substituted merchandise are eligible for drawback under 1313(j).

Page 3, line 10: The proposed change is grammatical.

Your favorable consideration of our views on this important legislation will be most appreciated. As always, we stand ready to cooperate with you and your Subcommittee in any way that we can.

Respectfully,

Howard J. Henke

Howard J. Henke
Executive Director

Attachment

NCITD

PROPOSED REVISION OF S.1430

Amend as follows (language to be deleted is in [brackets]; language to be added is underscored):

Page 2 of bill

(2) If merchandise which is [of the same kind and quality as] commercially identical to--

(i) imported merchandise upon which was paid any duty, tax, of fee because of [such] its importation; or

(ii) an aggregate of such imported merchandise and commercially identical merchandise;

either of which has been received by a person prior to the subsequent exportation by the same person of such commercially identical merchandise;--

(A) is, before the close of a three-year period beginning on the date of importation . . . .

* *

. . . ., notwithstanding the fact that none of the imported merchandise may actually have been exported or destroyed under customs supervision;

* *

(3) The [performing] performance of [incidental] operations (including, but not limited to, adjusting, testing, cleaning, packing, repacking, and inspecting) which do not constitute manufacture or production for drawback purposes under the preceding provisions of this section, on -

(A) the imported merchandise itself in cases to which paragraph (1) applies; or

(B) the merchandise of the same kind and quality in cases to which paragraph (2) applies; or

(C) packaging materials in cases to which paragraph (4) applies;

Page 3 of bill

[that does not amount to manufacture or production for drawback purposes under the preceding provisions of this section] shall not be treated as a use of that merchandise for purposes of applying paragraph (1)(B) or (2)(B), nor shall the performance of such operations be deemed to have changed the condition thereof for purposes of applying paragraph (1)(A)(i);

(4) Imported [packaging] material [that is imported for use in performing incidental operations regarding the] used for packaging or repacking of [imported] merchandise to which paragraph (1) or (2) applies shall be treated under such [paragraph] paragraphs in the same manner as such merchandise for purposes of refund, as drawback, of 99 per centum of any duty, tax, or fee imposed under federal law on the importation of such material.

national federation of fishermen
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(202) 554-3272; (202) 659-9833

19 October 1983

Honorable Bob Packwood
SCtte on Taxation and Debt Management
Ctte on Finance
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

As the only national organization of commercial fishermen, NFF strongly urges S 759 be enacted into law. The Federation represents a majority of the organized United States trawlers, vessels which fish year-around from Maine to Alaska.

For over ten years, NFF and other fishermen's organizations have been seeking to have the tariffs and duties on fish nets and netting reduced because, despite assertions to the contrary from United States net manufacturers, much of what we seek abroad is not, for various reasons, available in the United States. Once again, to provide you and your colleagues on the SCtte with current information, I have discussed this problem with a variety of our members. I will highlight below the information they have given me. But each of the fishermen with whom I talked prefaced his data by stressing the fact that fishermen would prefer to purchase US products if what they needed were available --for two reasons: they would not have to pay the higher price the present tariff causes, and they would not have to calculate the longer lead time for the delivery date, a point which may be quite critical in the middle of a fishing season. This came from fishermen in New England, on the West Coast, and those working in the fisheries off Alaska.

They, and NFF, also continue to argue that to reduce this tariff would be entirely consistent with the policies and purposes on the Magnuson Fishery Conservation and Management Act--to achieve full utilization of the fisheries resources in our 200-mile zone by the United States fishing industry. Fisheries are now fifth in the balance of trade deficit, partly because seafood products come into this country virtually untariffed while the equipment we need to compete with the foreign fleets, to replace their products in our markets, are heavily tariffed. Surely, in a nation which prides itself on its free trade policy, this is absurd? To remove this tariff would not be a subsidy to the United States fishing industry--on the contrary, it would help us with expansion into US underutilized species, thereby creating more jobs.

From New England, I'm told that both Korean and Portuguese twine figure prominently in US nets. Although the amount which fishermen use varies widely fishery to fishery and from region to region, large northern New England draggers may use as much as 500 lbs/month, while smaller draggers fishing smoother bottom may use 500 to 1000 lbs/year, all at a cost plus tariff of over $3/lb. And this, ladies and gentlemen, is only for repairs. Depending on the sizes of these draggers, nets may run from $1500 to $2500; each vessel carries at least two, and many try to carry more routinely. Draggers fishing on really rough bottom may tear up two or three bellies a trip, which requires a fair amount of replacement twine aboard at all times.

In southern New England, one of our members reports, a 55' vessel will spend $5000 a year on twine alone, while a larger one fishing more rugged bottom will run a twine bill of $30,000 routinely. He points out, as well, that fishery management measures may cause fishermen extra expenses: under the regulations for the interim groundfish plan, for example, fishermen in that fishery were required to build new codends because the mesh size required had gone from 5-1/8" to 5-1/2". That was a one-time major expense, but it came during a time when fishermen, like other small businessmen, are facing rising operating costs--and although we assume it is one-time in this fishery, it is an indication of what we may expect in other net fisheries if management regulations were to change significantly.

West Coast trawl fishermen may pay up to $5/lb for twine. A vessel fishing in the traditional fisheries may use up one $2300 net a year, excluding repairs. Nets for the new, post-MFCMA Pacific whiting fishery run $20,000 or more each, and because that fishery is a joint venture fishery (one in which vessels are continually fishing, delivering the codend to a floating processor, putting on a new codend to go again), these vessels routinely carry more than two codends.

Finally, for nets for the new bottomfish and midwater fisheries off Alaska, costs run even higher. These are fisheries in which the foreigners have been, and even now, are predominant. These are the fisheries in which the greatest growth potential for the United States lies--but we must first displace the foreigners, and to do so we must have competitive gear, including the nets which we are now purchasing from abroad which come with outrageous tariffs, making our products even less competitive with the heavily-subsidized foreign products with which these are competing.

Depending upon how much of the trawl is built where, here or abroad, and if it is built here, how much is imported twine, prices of the net alone may range from $10,000 to $20,000 (this excludes all non-net gear necessary to make the trawl fish). Again, vessels in the bottomfish and midwater fisheries are usually delivering at sea and therefore carry several codends, and the cost per vessel is modified appropriately...or inappropriately, in light of the non-competitively high tariff on imported fish nets and netting. Especially in this new fishery, where profit margins, if they exist, are very slim, the difference in a lowered tariff could be particularly significant.

I would be happy to expand upon upon these brief examples, or to have my members do so for the SCtte, if you wish. Please do call me.

Our thanks for your continuing interest.

Yours sincerely,

LBSloan

Lucy Sloan
Executive Director

PENNSYLVANIA
FARMERS'
ASSOCIATION

Written Statement Before the

SENATE SUBCOMMITTEE ON INTERNATIONAL TRADE

on S. 453

Submitted by the

PENNSYLVANIA FARMERS' ASSOCIATION

P.O. Box 736

Camp Hill, PA 17011

September 2, 1983

510 S. 31st STREET – P.O. BOX 736 – CAMP HILL, PA 17011 ● PHONE (717) 761-2740

The Pennsylvania Farmers' Association, the largest general farm organization with a membership of 23,431 farm families, appreciates the opportunity to submit our comments to you, Senator Danforth, and to the members of this Subcommittee on International Trade on S. 453, which would impose a one-tenth of one cent per gallon duty on apple and pear juice imports.

The production of apples and pears is important to the economies of Pennsylvania and a number of eastern and southen states. In Pennsylvania alone, apple and pear production during 1981 valued over $45 million. Apple and pear juice plays a significant role in economic viability of the apple and pear producers in our region. Nearly half of the apples produced in the eastern and southern United States are processed into apple juice.

Today, the apple producing industry is becoming seriously threatened by the increasing flow of concentrated apple juice imports into this country. Imported apple juice concentrate had very little affect on domestic apple juice markets during the 1960's and the first half of the 1970's. Since the mid 1970's however, concentrated apple juice imports have risen at an alarming rate. Between 1976 and 1982, the amount of imported concentrated apple juice has nearly tripled - - from a single strength equivalent of 34.38 million gallons to over 103.75 million gallons. This amounts to a per bushel increase in apple imports from 9.57 million bushels to 30.38 million bushels. In monetary terms, imported concentrated apple juice has increased from $13.6 million to $92.3 million.

The increase in concentrated apple juice imports has resulted in a significant increase in the capture of domestic apple juice market. In 1976, concentrated apple juice imports equalled 26% of the total United States supply of apple juice. In 1982, this figure had risen to over 47%.

Argentina has, by far, been the leader of apple juice exportation to the United States. Since the mid 1970's, Argentinean concentrated apple juice has amounted to roughly half of the total volume of concentrated apple juice importation in the United States. In 1982 alone, Argentina exported nearly 42 million single strength gallons of concentrated apple juice into the United States, equivalent to over 12.25 million bushels of imported apples. Some $36.25 million worth of Argentinean apple juice was marketed in the United States during 1982.

Argentina has been able to capture such a large share of the United States market because of government subsidies to exporters and producers of apple juice bound for the United States. These Argentinean exporters and producers are being subsidized in several ways.

First, exporters are afforded a 5% rebate on their cost of exporting apple juice with possibility of an additional 13% rebate if the juice is shipped through the port of San Antonio Oeste or Puerto Madryn. An Argentinean exporter has the ability to get back 18% of his costs of shipping to the United States from his government. Evidence has shown that a significant portion of the concentrated apple juice exported to the United States has come from these two ports.

Second, exporters are eligible to receive pre-export financing of up to 60% of the value of the exported apple juice at a rate of just 7% interest and repayment of 120 days. This allows the exporters to grant U.S. purchasers of concentrated apple juice a much more beneficial financial arrangement than would be afforded under purchases and processing of domestic apples.

Third, Argentinean producers are receiving interest-free loans of $100 per metric ton of concentrated apple juice exported. These loans are not required to be repaid for 10 years and allow a 2-year grace period before the first loan installment payment is required to be made. One can obviously see the economic potential these "loans" can have in the ability of exported products in both undercutting domestic apple juice prices and permitting more favorable financing arrangements to domestic purchasers of apple juice.

The subsidies bestowed in Argentina and other countries have had a devastating effect on the marketability of American apples for apple juice. As a result of subsidization, exporters are able to offer concentrated apple juice at a price well below the cost of production of U.S. apples to concentrated apple juice. The average purchase price per gallon of concentrated apple juice imported to the United States today is approximately $5.45. For concentrated apple juice produced and processed in the United States to be offered for sale at $5.45 per gallon, producers of apples could receive no better price for their apples than $3.45 per hundredweight. The average cost of production of one hundred weight of apples equals between $5.25 and $5.50. Thus, to compete with the price of subsidized apple juice imports, apple producers would have to offer their apples at nearly a $2.00 loss per hundredweight.

Subsidization of apple juice has had other economic consequences. As previously mentioned, the equivalent of over 30 million bushels of apples were imported into the United States in 1982 as concentrated apple juice, which means that 30 million less bushels of apples were produced for apple juice processing in the United States. It is extimated that 30 to 40 employees are needed per million bushels of apples for processing into apple juice. As a result of imports of apple juice, between 900 and 1,200 jobs have been displaced in the processing sector alone. Many additional jobs that would have been created to produce the additional 30 million bushels of apples and many other jobs related to the processing of apples have been foregone as the result of apple juice imports.

The consumer has also had to suffer at the hands of apple juice imports. The processing of apples into apple juice in the United States is done under high quality control standards to insure a superior apple juice product. Processed concentrated apple juice in many exporting countries has not been subject to these same quality control standards and will not become subject to these standards when imported into the United States, since the only "processing" done on this concentrated juice is dilution by water. It has been consistently shown that the quality of both concentrated and single strength imported apple juice is significantly inferior to the American apple juice products.

Our tariff and trade laws do provide some relief to domestic producers whose ability to compete has been undermined by subsidized exports. The imposition of countervailing duties on imports of subsidized products will allow American producers to be competitive at home. However, as you probably are aware, the present Tariff Schedule of the United States provides a zero duty on apple and pear juice imported from countries which enjoy the "most favored nation" status. Argentina is a country which enjoys such status.

Since apple and pear juice has a duty free status with most favored nation countries, in order for countervailing duties to be imposed there must be a showing of economic injury. By economic injury is meant injury to "producers of like products". The definition of like products under the tariff and trade laws is interpreted to mean apple juice rather than the apples from wich the juice was made. Consequently, in order for a countervailing duty to be imposed upon Argentina and other most favored nations, the apple juice processors and marketers must initiate a countervailing duty petition and injury to the apple juice marketers must be shown. The marketers of apple juice, who need only to dilute the imported apple juice concentrate for marketing and who can obtain the imported concentrate at a much lower and more profitable price, cannot show injury and have little incentive to file a countervailing duty petition. The parties who are actually suffering injury by the subsidized apple juice imports, the producers of apples, have no remedy under present tariff and trade laws.

The imposition of a nominal duty on an apple and pear juice, as is proposed under S. 453, would help eliminate many problems incurred by apple producers under current law. The "injury test" would no longer be a prerequisite to the imposition of countervailing duties. Those suffering economic hardship at the hands of subsidized apple juice imports, the apple growers, would have the opportunity to petition the Commerce Department for the need of imposition of countervailing duties and the Commerce Department will have greater flexibility in imposing duties in those situations where the subsidization of imported products by other countries has adverse effects in other sectors of our economy.

We do not see S. 453 as "protectionist" legislation, nor would we advocate legislation which would prohibit or restrict the importation of products into the United States. The Pennsylvania Farmers' Association advocates free and fair trade among nations, where the buying, selling and prices of goods are determined in the international marketplace by fair competion among the suppliers and purchasers of products. But in situations where a producer totally financing his own cost of production must compete with a producer whose cost of production is partially financed by government subsidies and who can afford to undercut the selling price of his goods as a result of such subsidies, the producer financing his own production cost has little chance of survival. For such producer to offer a "competitive" price would be economic suicide, since he would be incurring significant losses.

S. 453 does little more than give the American apple and pear producer an even chance in attempting to compete with products which, as a result of government subsidization, do not have to compete. Apple and pear juice are presently the only juice imports free of duty under the most favored nation category. We give our highest support to S. 453, and we urge you, the members of this Subcommittee, to adopt the bill as introduced and to work for its passage both in full Committee and on the Senate floor.

Thank you.

Statement of

POULTRY AND EGG INSTITUTE OF AMERICA
and the
NATIONAL DUCKLING COUNCIL
to the
Subcommittee on International Trade
COMMITTEE ON FINANCE
UNITED STATES SENATE

October 25, 1983

Mr. Chairman, Members of the Committee, my name is Lee Campbell, President of the Poultry and Egg Institute of America, Arlington, Virginia.

It is the desire of the Poultry and Egg Institute of America and the National Duckling Council to present views to the subcommittee and it is requested that these views be included in the record of the hearing on H.R. 3398 and other miscellaneous tariff bills.

The Poultry and Egg Institute of America is the national non-profit trade association representing those who produce, process and distribute chickens, ducks, eggs, geese, turkeys and poultry and egg products.

The National Duckling Council is a national trade group representing U.S. duckling growers, processors and marketers as well as suppliers and allied industries having an interest in the growth and development of the U.S. duckling industry.

We are opposed to S.847 and to Section 121 of H.R. 3398 which would extend the existing duty suspension on crude feathers and down until June 30, 1987.

The production of ducklings has been growing in the U.S. since 1979, in fact, production in 1982 exceeded 1978 production by nearly 33%. As part of efforts to sell the increased production, processors of duckling in the United States have actively sought export markets.

They have faced a variety of tariff and non-tariff barriers in their attempts to market their products--frozen duckling and geese--in the international marketplace. It is ironic that some of the very countries who maintain trade barriers against U.S. poultry products are given completely free access to this country for feathers and down (a by-product of the duck and goose business - and a part of the business that plays an important factor in profit or loss for U.S. producers).

The strength of the U.S. dollar has also made it difficult to sell ducklings and geese abroad. That same disadvantage becomes an advantage for foreign competitors selling feathers and down into the U.S. especially when offered a duty concession by the U.S.

The existing duty suspension was granted, as far as we are aware, without any quid pro quo. If the United States gives up anything in tariff reductions it is imperative, we submit, that concessions are received in return.

We urge the Committee not to extend the existing duty suspension.

Thank you for the opportunity to present our views.

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October 21, 1983

VIA HAND DELIVERY

Honorable John C. Danforth
Chairman, Subcommittee on
International Trade
Committee on Finance
United States Senate
Washington, D.C. 20510

Re: S. 1853

Dear Mr. Chairman:

In connection with the hearings before your Subcommittee this date on H.R. 3398 and a number of Senate bills, including the captioned proposal, concerning tariff matters, I submit herewith a statement on behalf of Sea-Land Industries, Inc. in support of S. 1853 and ask your permission that it be included in the record of the hearing.

Thank you for your considerate attention to this request.

Cordially,

RAGAN & MASON

Karl E. Bakke

Karl E. Bakke
Counsel for Sea-Land Service, Inc.

Enclosures

STATEMENT OF
SEA-LAND INDUSTRIES, INC.
BEFORE THE SUBCOMMITTEE ON INTERNATIONAL TRADE,
SENATE COMMITTEE ON FINANCE
ON S. 1853
OCTOBER 21, 1983

Sea-Land Industries, Inc. is pleased to submit this statement in support of S. 1853.

Our operating affiliate Sea-Land Service, Inc. is the world's largest container transportation system, operating 40 U.S.-flag containerships, 81,000 containers and 46,000 highway chassis between 180 ports and cities in 57 countries and territories.

This bill would provide a qualified exemption for any vessel that has been continuously absent from the United States for two years or more from the present 50 customs duty on routine repairs and equipment obtained abroad.

The present 50 percent duty on foreign maintenance and repairs is a punitive measure that was written into the customs law more than 100 years ago to protect the domestic shipbuilding industry. Its purpose was to discourage operators of U.S.-flag vessels from purchasing equipment, or having maintenance or repair work of a non-emergency nature performed, in foreign yards. The underlying premise was that U.S.-flag merchant vessels conducted their business on a round-trip voyage basis and non-emergency shipyard work could be deferred until their return to a U.S. port.

That assumption was perfectly valid until recent years. Unlike many maritime nations such as England, Scandanavia and other European countries that for centuries have made cross-trading an instrument of national economic policy, the U.S.-flag commercial fleet traditionally has engaged predominantly in round-trip voyages of limited duration in our own import and export trades. This is still the case for most U.S.-flag vessels. However, times, technology and trading patterns are changing, and there are now many vessels of U.S. registry that operate regularly in foreign waters for years at a time without returning to the United States -- and cannot economically do so for routine maintenance and repairs.

The Congress recognized this developing reality in 1971, when it provided an exemption from the foreign-repair duty for fishing boats and other special-purpose vessels such as barges, sea-going oil rigs and research ships, provided they remain away from the United States for two years or more. In recommending enactment of that exemption, the parent body of this Subcommittee concluded that:

> The amendment would not adversely affect American shipyards or American labor since these vessels would have to be in foreign or international waters for 2 years or more in order to be relieved from payment of the duty, and could not in any event be repaired in U.S. shipyards during their voyages . . . .(S. Rept. No. 91-1474, 91st Cong., 2d Sess.; 1970 U.S. Code Cong. and Admin. News, p. 5911.) [Emphasis added.]

This very same finding is equally valid with respect to the commercial vessels to which S. 1853 now proposes to extend the same treatment. Where there is foreign deployment over extended periods of time, it simply is not economically feasible to return such vessels from their dedicated foreign service to the United States for routine maintenance and repair work. Accordingly, U.S. shipyards are not and would not be deprived of a single dollar of work that they might otherwise reasonably expect. That work is, of necessity, done abroad in the normal course of the vessels' regular foreign-to-foreign voyages.

The magnitude of the problem for U.S.-foreign operators can perhaps best be demonstrated by a specific example. For a number of years prior to 1977 two of our vessels, BEAUREGARD and RAPHAEL SEMMES, had been used exclusively in foreign-to-foreign trade in the Pacific in connection with supply of our armed forces in the Vietnam war. With cessation of active hostilities, Sea-Land was faced with the question of what to do with those vessels.

One option was to bring them back for employment in trades calling at U.S. ports. However, substantial routine repair costs had been incurred during their stay abroad, and it was estimated that the duty liability on that non-emergency work would be between 300 and 400 thousand dollars per vessel if they returned to the United States.

This fact ultimately led to a decision to scrap the vessels abroad, which meant that U.S. shipyards were deprive of the future maintenance and repair work that would have been booked if they had been returned for further productive use. Under these circumstances, the duty provision involved actually worked to the disadvantage of U.S. yards, as well as to that of Sea-Land.

Sea-Land is not alone in the classic Catch-22 dilemma to which S. 1853 is addressed. Other U.S.-flag operators also have merchant vessels presently dedicated on a long-term basis to service away from home. Those operators may ultimately wish to bring their vessels back into the U.S. trades, at which time duties on foreign equipment and repairs would be assessed.

As a matter of fact, the law as it now stands would apply to privately-operated U.S.-flag merchant vessels under charter to the Department of Defense and required to be away from the

United states for protracted periods as part of the prepositioned logistical support for the Rapid Deployment Force Program. A more egregious inequity is difficult to imagine.

Passage of S. 1853 would lav to rest this penalty for not having done what could not reasonably have been done under the circumstances in the first place.

The 2-year absence requirement for eligibility in this bill, as in the case of special-purpose vessels now entitled to the duty exemption, would fully protect the interests of domestic shipyard operators and labor. There is no way that the repairs could have been performed by such operators and labor in the first instance.

What S. 1853 seeks to accomplish is a modest step in the direction of relieving the U.S. Merchant Marine from one of the governmentally-imposed cost burdens that impair its ability to compete effectively with foreign-flag counterparts (including state-owned carriers of both the Eastern Bloc and the Third World) that generally not only have lower operating costs but are heavily subsidized and accorded preferential tax treatment as well.

Indeed, the Administration has advocated legislation for outright accross-the-board repeal of the 50 percent duty requirement for precisely that reason. This legislation is, therefore, entirely consistent with Administration objectives to free the Merchant Marine from debilitating cost burdens in its competitive confrontation with foreign-flag operators.

In this connection, it should be pointed out that until 1979, U.S.-registry commercial aircraft also were subject to the 50 percent duty on foreign equipment and repairs. In that year the Congress provided a blanket exemption from the duty for U.S. aircraft, to foster operation of U.S. civil aviation on a commercially competitive basis with foreign air carriers.

Much the same rationale applies to the further amendment proposed in S. 1853; in fact, with even greater logic. Civil aircraft can much more readily be returned to U.S. facilities from abroad for non-emergency maintenance and repair, even if based abroad, than can merchant vessels, and at a fraction of the operating cost and out-of-service time. If the duty on foreign equipment and repairs represented a competitive burden on the U.S. commercial air fleet in the 1970's sufficient to warrant legislative relief, then surely the burden on the foreign-deployed segment of the U.S. Merchant Marine and the justification for a more limited form of relief - requiring a 2-year absence for eligibility - is exponentially greater.

In sum, the proposal in S. 2583 to exempt from duty on foreign repairs and equipment all vessels that are "on station" abroad for 2 years or more would be:

- logical and equitable;
- in accord with prior legislative action narrowing the scope of the duty requirement where a legitimate inequity or hardship was demonstrated;
- not in conflict with the legislative purpose underlying imposition of that duty; and
- consistent with the Administration's policy position that this antiquated statute should be repealed completely.

In closing, it is pertinent to note that the revenue to the Treasury derived in recent years from foreign vessel repair entries has not been significant. Annex A shows that the average foreign repair duties collected in the period 1978-1982 on all U.S.-flag vessels was less than $2,500 per entry. Given this modest return, it may very well be that the administrative cost of processing such entries and dealing with disputes and protests have exceeded the revenue ultimately derived.

For the foregoing reasons, Sea-Land urges prompt and favorable action on S. 1853.

Annex A

Average Duty Per Vessel Repair Entries and Duties: 1978-1982

Year	(1) Commercial Vessel Entries	(2) Vessel Repair Entries	(3) Foreign Repair Dutie	(4) Average Repair Duty Per Vessel Repair Entry
1978	104,253	2,482	$ 2,237,716	$ 901.58
1979	110,947	2,144	$ 2,195,672	$1,024.10
1980	108,876	1,998	$ 2,821,094	$1,411.96
1981*/	107,848	2,124	$ 7,490,397	$3,526.55
1982*/	101,874	2,184	$11,958,332	$5,475.43
5-yr. Avg.	106,760	2,186	$ 5,340,642	$2,433.11

Source: Customs U.S.A., Annual Report 1982 p. 32-34; Entry and Liquidation Statistics, Report AR 5401 (end of year reports) of the United States Customs Service. Table excludes figures for Puerto Ricvo and U.S. Virgin Islands.

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*/ The increase in repair duties in 1981 and 1982 reflects the liquidation of a backlog of repair entries for earlier years. thus inflating the amount of duty collected. Accordingly, since the number of repair entries in each of the 5 calendar years shown remained quite constant, the best gauge of the actual level of non-emergency foreign repairs is a five-year average of the duties paid (bearing in mind that the duties represent 50% of the actual expense of such repairs).

SIA SEMICONDUCTOR INDUSTRY ASSOCIATION
4320 Stevens Creek Blvd. • Suite 275 • San Jose, CA 95129 • (408) 246-1181

September 9, 1983

Roderick A. DeArment
Chief Counsel
Committee on Finance
Room SD 219 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. DeArment:

The Semiconductor Industry Association (SIA) greatly appreciates this opportunity to present its views on S. 1420 -- a bill to suspend the rates of duty on semiconductors and computer parts. The semiconductor industry has long been among the strongest supporters of free trade. We oppose barriers to trade of any kind, and feel that this legislation could be of great benefit to our industry.

This is a particularly important time for the passage of legislation to authorize the President to suspend the duty on semiconductors. An agreement for the reciprocal reduction of semiconductor duties is under active consideration in negotiations between the United States and Japan to secure greater access to the Japanese market for U. S. semiconductor exports.

In 1983 the U.S. semiconductor industry expects to pay total duties of $83 - $95 million to the U.S. and Japanese governments. This sum represents approximately 5% of annual investment by the U.S. industry. The suspension of the rate of duty in the United States alone would save U.S. semiconductor manufacturers $65 - $77 million in 1983 duty payments on the value added in that part of semiconductor assembly and testing which is conducted overseas. This would certainly be one of the single most significant cost savings the U.S. Government could effect for the U.S. industry.

In addition, domestic semiconductor manufacturers allocate very high portions of their net sales to R&D and investment. In 1982 R&D as a percentage of net sales reached 10.7% and in 1981 investment as a percentage of net sales stood at over 20%. As a rule, firms in the U.S. semiconductor industry pay no dividends, but plow all earnings back into their business.

With industry demand for investment capital so great, the majority of the savings experienced by the industry would be utilized for increased R&D and investment. In this highly competitive industry, the balance of savings would be passed on to users of semiconductors in terms of lower prices. The result of both uses of the duty savings would be increased economic activity in this country, and ultimately more tax payments to the Federal as well as to state and local governments.

In the competition between U.S. and foreign semiconductor producers, national duties play a role only as a cost to all producers and the majority of this cost is borne by U.S. firms. Suspension of the duty on semiconductors especially when coupled with reciprocal action by the Japanese Government, would benefit the U.S. industry more than that of any other nation.

We urge your committee to take positive action on S. 1420. It is a simple and effective step to increase the competitiveness of the U.S. semiconductor industry at home and abroad, and an essential step in order to secure greater access to the Japanese semiconductor market.

Sincerely yours,

Robert N Noyce

Robert N. Noyce
Chairman
Semiconductor Industry Association
and Vice Chairman
Intel Corporation

lk:K-9/D

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STATEMENT ON BEHALF OF
THE JOINT INDUSTRY GROUP
IN SUPPORT OF S. 1430 AND S. 1443

To amend the Tariff Act of 1930 regarding same condition drawbacks and same kind and quality drawbacks, and for other purposes.

This statement is submitted on behalf of the Joint Industry Group, which is a coalition of trade associations, and the businesses they represent, interested in the technical aspects of international trade, and especially Customs matters. This statement is supported by:

Air Transport Association of America
American Electronics Association
American Association of Exporters & Importers
American Retail Federation
Chamber of Commerce of the United States
Cigar Association of America
Computer & Business Equipment Manufacturers Association
Council of American-Flag Ship Operators
Electronic Industries Association
Foreign Trade Association of Southern California
International Hardwood Products Association
Motor Vehicle Manufacturers Association
National Association of Photographic Manufacturers
National Committee on International Trade Documentation

National Customs Brokers and Forwarders Association
National Foreign Trade Council
Scientific Apparatus Makers Association

The Joint Industry Group supports the proposed modifications of the Same Condition Drawback statute, Section 1313(j) of the Tariff Act of 1930, which are contained in S. 1430 and S. 1443, and, in addition, recommends some additional changes to that provision of the law which, we think, would permit American exporters to realize the full benefits which that statute was intended to provide.

Many of the companies represented in the Joint Industry Group are multinational corporations which operate facilities located within the United States as well as throughout the world. Many of the members of the Joint Industry Group are both importers and exporters with obvious interests in international trade and a compelling need to be competitive in the markets of the world. The companies represented by the Joint Industry Group now face substantial competition in those markets, and must meet that competition notwithstanding rising costs and the current strong position of the United States dollar, both of which have combined to make their products less price competitive by comparison with those articles which originate in other countries.

For nearly two centuries, the Congress of the United States has recognized the role of drawback in our export trade, by including provisions for the payment of drawback in the Tariff Act of 1789, the second law passed by the First Congress of the United States, and by maintaining drawback provisions in the Tariff Acts of this country from that time to the present. More than one hundred amendments and modifications have been made to the drawback laws to date, the most recent being the passage of Public Law 96-609, which added a new Subsection (j) to Section 1313 of the Tariff Act of 1930, and made it possible for exporters to receive refunds of duty paid on imported merchandise exported in the same condition as when that merchandise entered the United States, and in addition, provided that certain "incidental operations" could be performed on imported merchandise without disqualifying them for the benefits of Subsection (j). This, the so-called same condition drawback law, took effect on December 28, 1980.

Our experience with the current same condition drawback law indicates that there are areas in which we think the law might properly be amended to better effect the ends to which that law was originally addressed, by: (1) Enhancing the competitive position of U.S. exporters in foreign markets by reducing the cost of their products as a consequence of refunding duties paid upon their importation; and (2) Encouraging businessmen to maintain and establish facilities in the United States, rather than overseas, by reducing the net duties payable by those businessmen, and thereby reduce the cost of operating such facilities in the United States through payment of drawback. This is a process that will create jobs in the United States.

As enacted, the same condition drawback law authorizes the payment of drawback upon the exportation of imported articles which have not been "used" and are, except for the performance of "incidental operations," in the "same condition" as when those articles were imported. Over the last 2½ years, significant, practical problems have arisen in three areas:

1. United States exporters commonly procure commercially interchangeable products from more than one source; such dual-sourcing serves to protect the buyer from losses which might otherwise be incurred in the event that a single vendor-supplied item became unavailable by reason of natural disaster or other unforeseeable

interruption in delivery. It has become increasingly desirable, and usual, to source the essential parts of articles from both domestic and overseas vendors. Inasmuch as Section 1313(j) is limited to the payment of drawback upon the exportation of imported articles, the United States exporter must either maintain segregated inventories of United States and foreign sourced articles so that he can positively identify the origin of otherwise commercially indistinguishable components or forego drawback to which that exporter would otherwise seem entitled. Clearly, either course of action on the part of the exporter involved added elements of cost that were not contemplated upon the enactment of the same condition drawback law. As introduced, S. 1430 and S. 1443 would permit the substitution of merchandise "of the same kind and quality" for imported merchandise without denying the exporter the benefits of drawback upon its exportation. In addition, we suggest that this provision of the bill be amended to provide specifically for the payment of drawback upon the exportation of an aggregation of imported merchandise and other products of the same kind and quality. Our suggestion in this regard would conform Section 1313(j) to the corresponding provisions of Section 1313(c) and would clearly eliminate any need for additional costs incurred in the maintenance of separate inventories.

2. A significant difference in opinion as to the applicabililty of Section 1313(j) has arisen with repect to packaging operations performed in the United States upon imported or domestic merchandise. Examples of the particular problems which have arisen with respect to packaging materials include the question of whether the filling of an imported box, bottle, can, or other container is a "use" of that article which render such container ineligible for drawback upon their exportation. S. 1430 would, in our view, substantially dissipate the uncertainty

which has arisen in this area, and as noted above, we suggest some modifications in the language of the proposed amendments which should further clarify these situations. These modifications are set out in Annex I.

3. Although the drawback status of packaging materials represents a very specific problem area under Section 1313(j), it is also illustrative of the difficulty which has been encountered in the practical application of that portion of Section 1313(j) which permits the performance of "incidental operations" upon imported merchandise without disqualifying the same from eligibility for payment of drawback upon their exportation. The term "incidental operations" is not defined clearly in the existing statute, so that there is no objective standard for determining whether a given operation may or may not be performed without loss of potential drawback. We recognize the difficulties which are inherent in attempting to draft objective standards to cover unforeseen factual situations and the manufacturing technology of tomorrow, and at the same time, we recognize the fact that certain generic classifications of operations necessarily blur distinctions in degree which are of commercial and legal significance. Thus, for example, certain packaging operations may involve extremely modest manipulations of the materials employed, so that all would conclude that such operations were indeed "incidental," and resulted in no change of condition or use of the materials employed. On the other hand, other packaging operations necessarily involve substantial transformations of the materials employed so that, similarly, all concerned would recognize that those particular operations were tantamount to a manufacture or production which would ordinarily be cognizable under other provisions of the drawback laws, i.e., Section 1313(a) or Section 1313(b). Prudent businessmen, we think, should be willing to conform to the statutory and regulatory requirements of Section 1313(a) or (b), where substantial manufacturing is involved, or to the requirements of 1313(j), in the event such operations are truly "incidental". By the same token, the exporter should be prepared to determine, in advance, which statutory and regulatory framework is to be followed

with respect to particular operations. The real problem, and the problem which we think should be eliminated by appropriate amendments to Section 1313(j), is that the interpretation of existing law suggests there are operations which are more than "incidental" and are less than "manufacture or production" so that performance of those operations disqualifies the article upon which they are performed from drawback in either instance. For this reason, we have drafted language which, if enacted, would have the effect of defining "incidental operations" as being those operations "which do not constitute manufacture or production for drawback purposes" under Sections 1313(a) through 1313(h).

In summary, then, the Joint Industry Group supports the proposed amendment of Section 1313(j) in the manner proposed in S. 1430 and S. 1443, and further recommends that this Committee consider additional technical modifications to the bill which will further clarify the problem areas identified above, as set forth in Annex I.

Respectfully submitted,

THE JOINT INDUSTRY GROUP

By: John S. Rode
John S. Rode

JSR:cf

ANNEX I

NOTE: Changes recommended by The Joint Industry Group are indicated in the following manner:

Language added to the bill has been placed in the right-hand margin with an arrow drawn to the point of insertion;

Language deleted from the bill has been enclosed in brackets and stricken through.

98TH CONGRESS
1ST SESSION

S. 1430

To amend the Tariff Act of 1930 regarding same condition drawbacks and same kind and quality drawbacks, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 8 (legislative day, JUNE 6), 1983

Mr. DURENBERGER introduced the following bill; which was read twice and referred to the Committee on Finance

---

A BILL

To amend the Tariff Act of 1930 regarding same condition drawbacks and same kind and quality drawbacks, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following new paragraph:

"(2) If merchandise of the same kind and quality as imported merchandise upon which was paid any duty, tax, or fee because of such importation—

or an aggregation of such imported merchandise and merchandise of the same kind and quality,

"(A) is, before the close of a three-year period beginning on the date of the importation—

"(i) exported from the United States; or

"(ii) destroyed under customs supervision; and

"(B) is not used within the United States before such exportation or destruction; then upon such exportation or destruction 99 per centum of the amount of each such duty, tax or fee so paid shall be refunded as drawback, notwithstanding the fact that none of the imported merchandise may actually have been exported";

or destroyed

(3) by amending paragraph (3) (as redesignated by paragraph (1)) to read as follows:

"(3) The [~~performing~~] of [~~incidental~~] operations (including, but not limited to, testing, cleaning, repacking, and inspecting) on—

performance

adjusting,

packing,

which do not constitute manufacture or production for drawback purposes under the preceeding provisions of this section,

"(A) the imported merchandise itself in cases to which paragraph (1) applies; or

"(B) the merchandise of the same kind and quality in cases to which paragraph (2) applies;

or

(C) packaging materials in cases to which paragraph (4) applies;

~~that does not amount to manufacture or production for drawback purposes under the preceding provisions of this section~~ shall not be treated as a use of that merchandise for purposes of applying paragraph (1)(B) or (2)(B).''; and

nor shall the performance of such operations be deemed to have changed the condition thereof for purposes of applying paragraph (1)(A)(i)

(4) by adding at the end thereof the following new paragraph:

"(4) ~~Packaging~~ material that is ~~imported for use in performing incidental operations regarding the~~ packaging or repackaging of ~~imported~~ merchandise to which paragraph (1) applies shall be treated under such ~~paragraph~~ in the same manner as such merchandise for purposes of refund, as drawback, of 99 per centum of any duty, tax, or fee imposed under Federal law on the importation of such material.''.

Imported

used for

or (2)

paragraphs

○

II

98TH CONGRESS
1ST SESSION

S. 1443

To amend the Tariff Act of 1930 regarding same condition drawbacks and same kind and quality drawbacks, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 9 (legislative day, JUNE 6), 1983

Mr. DURENBURGER introduced the following bill; which was read twice and referred to the Committee on Finance

---

A BILL

To amend the Tariff Act of 1930 regarding same condition drawbacks and same kind and quality drawbacks, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j) is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following new paragraph:

"(2) If merchandise of the same kind and quality as imported merchandise upon which was paid any duty, tax, or fee because of such importation—

or an aggregation of such imported merchandise and merchandise of the same kind and quality,

"(A) is, before the close of a three-year period beginning on the date of the importation—

"(i) exported from the United States; or

"(ii) destroyed under Customs supervision; and

"(B) is not used within the United States before such exportation or destruction.".

○

COMMENTS OF
THE SHERWIN-WILLIAMS COMPANY
FILED WITH THE FINANCE COMMITTEE

The Sherwin-Williams Company is filing this Comment in response to the request by the Senate Finance Committee for comments on certain miscellaneous tariff bills. We support the passage of S. 1372, a bill introduced by Senators Percy and Bentsen and Section 125 of H.R. 3398 which suspend the duty on MXDA (meta-xylene diamine) and 1,3-BAC (1,3-bis [amino-methyl] - cychlohexane) until June 30, 1986. These chemicals are used to produce epoxy curing agents, engineering type nylons, tetrafunctional epoxies, and diisocyanates. The are used in:

- Aerospace composites - as a part of the matrix (or glue) that holds the carbon fibers together.
- Engineering type nylons - as a part of a nylon polymer used for molding parts (gears, fan blades, electrical connectors, housings, etc.) where high tensile strength, high resistance to moisture and heat, and high dimensional stability are required.
- Epoxy curing agents - as the hardener portion of an epoxy system requiring good chemical resistance, good moisture resistance, good durability and temperature stability.
- Urethane system - as the hardener in the diisocyanate portion of high performance urethane systems used in flooring systems, adhesives, coatings, sealants and casting compounds.

The advantage in using 1,3-BAC in some applications is its slightly higher resistance to ultraviolet degradation. Because of the extra cost in manufacturing 1,3-BAC, its use is more restricted to areas requiring very excellent ultraviolet resistance.

Sherwin-Williams currently produces the product IPN (isophthalonitrile) via the ammoxidation of meta-xylene. MXDA is then produced via hydrogenation of IPN. The hydrogenation reaction requires facilities that will handle reaction pressures up to 4,000 psi and enable continuous processing. Sherwin-Williams does not now have such facilities available nor are there such facilities available for this reaction in any other U.S. based company which could perform this conversion for Sherwin-Williams on a contract basis. Therefore, Sherwin-Williams must rely upon a Japanese firm to supply MXDA and 1,3-BAC for its market development.

Suspension of the duty on MXDA and 1,3-BAC for three years would allow Sherwin-Williams the opportunity to develop new markets for these products in the United States. If the market development efforts are successful, Sherwin-Williams plans to construct facilities in the United States for an estimated cost of $10-$12 million which would perform the chemical conversion step now being carried out in Japan. It is estimated that the market development activity will take approximately three to five years with plant construction to begin sometime during that period. MXDA and 1,3-BAC are important keys for Sherwin-Williams' ability to maximize the use of its current plant by being able to vertically integrate to higher value chemicals and to open up many new market areas for us. The products being developed and currently made from these chemicals are "state of the art" and "next generation performance level" within their industries.

However, each of these areas is price sensitive and the duty suspension will help us develop the domestic and international markets more quickly so that we can justify manufacturing facilities in the United States. Neither of these materials is manufactured in this country at this time. The end result of this effort could make a United States chemical manufacturer a direct competitor with the Japanese for the marketing of these products, not only within this country, but in the international market. This would benefit the U.S. balance of trade with Japan and expand U.S. trading opportunities throughout the world.

On June 29, 1983, the House passed H.R. 3398, "Omnibus Minor Tariff Amendments," which provides under Section 125 for the suspension of the duty on MXDA and 1,3-BAC for three years. The Administration testified before the House Trade Subcommittee that it had no objection to its passage. The Ways and Means Committee considered it to be a noncontroversial tariff issue.

The Sherwin-Williams Company urges your favorable report on S. 1372 and Section 125 of H.R. 3398.

Respectfully submitted,

Kenneth H. Wilkinson

Kenneth H. Wilkinson
Director of Industry and
Government Affairs
Sherwin-Williams Company

tasco®
Tasco quality optics. We bring the world closer.

October 25, 1983

Mr. Roderick A. DeArment
Chief Counsel
Committee on Finance
Room SD-219
Dirksen Senate Office Building
Washington, D. C. 20510

Dear Mr. DeArment:

I am writing on behalf of Tasco Sales, Inc., in regard to the Senate Finance International Trade Subcommittee hearing on miscellaneous tariff bills held October 21st.

As president of one of the oldest and largest independent companies importing optical products from Japan, I wish to express my support for S. 1642, introduced by Senator Spark M. Matsunaga of Hawaii, that would authorize the duty-free importation of telescopes valued at not more than $200 and riflescopes valued at no more than $50.

Tasco is the American distributor of binoculars, telescopes and riflescopes manufactured in Japan, sold both at retail under the Tasco brand and distributed through large domestic retail chains. Tasco supported legislation in 1980 which gave duty-free status to binocular imports and has seen the positive results of its efforts. Enactment of that legislation has benefited both Tasco and the American consumer, as sales of binoculars have risen and retail prices have declined. Tasco believes enactment of S. 1642 would have a similar effect on sales of telescopes and riflescopes on the lower end of the price scale.

At present, telescopes and riflescopes are imported into the U. S. from Republic of Korea, Taiwan, Hong Kong and Japan, imports from the first three countries benefiting from duty-free status under the Generalized Systems of Preferences (GSP).

Mailing Address: P.O. Box 520080, Miami, Florida 33152 – 0080
Street Address: 7600 N.W. 26th Street, Miami, Florida 33122
Phone: (305) 591-3670 International Telex: 44-1126 Domestic Telex: 60-8380 Cable Address: Tanross Miami

tasco® is a registered Trademark of Tasco Sales, Inc.

GSP status gives imports from these three countries price advantages over Japanese produced goods, which are considered higher-quality products. For example, it is well-known that the Japanese export inspection system assure quality control in its riflescope exports not found in the GSP countries. Due to their poor quality, the duty-free imports from GSP countries are sold at lower prices in the U. S., forcing the few American producers of inexpensive riflescopes to match the duty-free price, depressing the domestic market further. Japanese-made riflescopes, however, are of higher quality and their availability at a reasonable price (unburdened by a 20% duty ad. val.) provides a distinct advantage to the American buyer.

The two-tiered duty system proposed by S. 1642 would allow for duty-free importation of telescopes and riflescopes with minimal effects on U. S. producers. In general, the average price for an American-made telescope is over $500, substantially more than the $200 cut-off point for duty-free treatment in S. 1642. Domestic riflescope producers also concentrate on the top-end of the price scale, with their average product costing between $75 and $150 and far exceeding the $50 limitation on duty-free imports.

To summarize, Tasco supports S. 1642 and urges the Committee to approve the bill because it will provide a better quality product to the average amateur astronomer and sportsman at a reasonable price. Without the elimination of duties on lower-priced imported telescopes and riflescope, importers and distributors such as Tasco may be required to import more products from GSP countries such as Korea, Taiwan and Hong

tasco®

October 25, 1983
Committee on Finance
Washington, D. C.
Page 3

Kong, resulting in lower quality goods and fewer products available to American consumers.

Thank you for the opportunity to present my views on this legislation.

Respectfully submitted,

George G. Rosenfield

George G. Rosenfield
President

GGR:js

STATEMENT OF THE AMERICAN HONEY PRODUCERS ASSOCIATION
Prepared for the
SENATE FINANCE SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. Chairman, and members of the subcommittee:

I am Glenn Gibson, Executive Secretary of the American Honey Producers Association, a nation-wide organization of honey producers, and or, beekeepers. We have members in 41 states Our group is the only nation-wide industry organization where the voting privileges are limited to producers only. Non-producer members are welcome, but they are not permitted to vote.

Our organization is pleased to have this opportunity to present its recommendations concerning our great problems with imports. We wholeheartedly support S. 526 by Senator Larry Pressler.

STATISTICAL ESTIMATES

For the Subcommittee's information over 200,000 beekeepers who produce honey, beeswax and offer pollination service to other segments of agriculture are divided in three groups:

200,000 hobbyists, owning less than 25 beehives, or colonies;
10,000 sideliners, owning 25 to 300 beehives, or colonies; and
1,700 commercial, owning 300 colonies, or more.

Total ownership in the U.S. is estimated to be 4.2 million colonies. Hobbyists and sideliners own 50 percent of the nations beehives and collectively produce 40 percent of the honey. Commercial beekeepers own the balance and produce 60 percent of the honey.

Hobbyist beekeepers, especially those with a few colonies, usually do not sell commercially. Instead, their production goes for home use and gifts for friends and relatives. Few in this group have any interest in making a profit and would not be affected with low prices.

On the other hand, sideline beekeepers are concerned with prices and markets. Some pack and distribute their honey to neighboring grocery stores. Others sell to packers and operate retail outlets - such as roadside stands. Over the years a number of these have made use of the honey loan program. Commercial and sideline beekeepers produce 80 percent of the nation's domestic production. Consequently, our recommendations for import protection are designed to assist these groups.

Our annual domestic production has shown no long-term change. However, annual production in recent years has been slightly lower than the forty year estimated average of 220 million pounds. This tends to explode the Department of Agriculture's theory that high subsidies cause overproduction. A high support rate will no doubt cause overproduction in exporting countries when they have a dumping ground like the United States.

PRICE SUPPORT EXPERIENCE

Authorization for the honey loan program was a part of the 1949 Farm Bill. This legislation mandated the support for honey at the rate of 60 to 90 percent of parity. The program was relatively trouble-free until 1980 when heavy imports caused a number to forfeit their loans and deliver their honey to the Government. The problem worsens with each passing year. Figures on Commodity Credit Corporation acquisitions and honey imports follow ---

Year	CCC acquisitions (*) (millions of pounds)	Imports (Millions of pounds)
1970	0.1	8.9
1971	0.0	11.4
1972	0.0	39.0
1973	0.0	10.7
1974	0.0	24.6
1975	0.0	46.4
1976	0.0	66.5
1977	0.0	63.9
1978	0.0	56.0
1979	0.0	58.6
1980	6.0	49.0
1981	38.7	77.3
1982	76.0	92.0

(*) From the previous crop year

We expect the figures for 1983 to show increases in both imports and takeover. During this period annual exports averaged less than 10 million pounds, which is certainly more than could be expected. Obviously, heavy imports are causing our problems with the honey loan program.

TARIFF RATES OF MOST-FAVORED-NATIONS

The Foreign Agriculture Service, USDA, reports the following tariffs imposed on imported honey from some honey trading countries:

Hong Kong	0
Canada	1.5 cents per pound
Australia	2% Ad valorem
Saudi Arabia	3% Ad valorem
Kauwait	3% Ad valorem
Malaysia	11 U.S. cents/lb.
Singapore	11 U.S. cents/lb.
European Community	27% Ad valorem
Argentina	28% Ad valorem
Hungary	30% Ad valorem
Japan	30% Ad valorem
Bahamas	32.5% Ad valorem
Turkey	50% Ad valorem
Romania	50% Ad valorem
Mexico	50% Ad valorem plus 2% export promotion surcharge plus 1.50% port improvement surcharge
Venezuela	60% Ad valorem plus 3.5% port surcharge if arriving by ship or 5.5% if arriving by air.

Red China	80% Ad valorem
Bulgaria	100% Ad valorem
Brazil	Prohibited

By no stretch of imagination can anyone say that the beekeeping industry is being treated fairly under the present tariff structure. Duties imposed on imported honey in Red China, Mexico, Argentina, and Brazil irritates our members no end. However, they realize these countries are not likely to buy American honey anyway, but the ill feeling will persist until this inconsistency is eliminated.

Japan and the European Community tariff schedules make a mockery of free trade. Not only do they exclude American honey, but they cause more honey to be shipped to our low-duty ports. Duties for these countries could be justified if they had a large industry. Foreign Agriculture Service reports the following colony count for 1982:

Japan	307,000	West Germany	1,130,000
France	1,200.000	United Kingdom	212,000

As in the United States most of the owners will be hobbyists and sideliners, who need very little protection.

THE HONEY BEE POLLINATION STORY

For more than thirty years we have stressed the value of honey bee pollination when seeking assistance of any nature from the goverment. Government officals and industry leaders have estimated this value to other segments of agriculture at $10 billion or more Beekeeper mail to and from Washington usually includes a reference to the great value of honey bees as pollinators. As a result, most have a vague appreciation of the industry's importance.

During the last three years honey producers have written a number of letters to members of Congress about our problem with imports and the possibility of losing the honey loan program. I have received copies of these both to and from Washington. All producer correspondence expressed deep concern about the possibility of losing honey supports. Congressional replies generally included a response from the Department of Agriculture.

A close study of the letters that hve originated in the Department of Agriculture reveals some troublesome bits of misinformation. Also, we have noted that this erroneous information has appeared in the news. We do not feel that the Department can make a reasonable decision until these are clarified. Misconception regarding honey bee pollination is that pollination fees can, and should, sustain the commercial and sideline beekeeper. This conclusion ignored two important facts -- only a tiny percentage receive fees for pollination and most honey bee pollination is done free of charge.

Department officials have told us that we can partially solve our economic problems by merely raising the pollination fees. We agree with Dr. Marshall Levin, director of the USDA, Agricultural Research Service Laboratory in Tucson,

Arizona when he said:

> "... We have been told that charges for pollination should be increased to offset losses due to pesticides, diseases, etc. Most of us who are familar with the industry know that this perception is not correct. This country's pollination needs can only be supplied by a thriving, profitable beekeeping industry based on honey production...."

Senator Larry Pressler wrote us expressing concern about these misconceptions:

> "... Two such misunderstandings are that beekeepers receive a large part of their income from pollination fees and that the honey loan program has encouraged increased honey production. You know that these things are not true, but -- the Departmen of Agriculture does not understand this...."

SUMMARY AND CONCLUSIONS

Our requests for Administrative assistance have fallen on deaf ears. Among other things we asked the Secretary of Agriculture to request a Section 22 study by the International Trade Commission. Also, we have sponsored legislation that would assess a 10 cent duty on all from most-favored-nations and 20 cents on communists countries.

The honey loan program is fast becoming unmanageable and the future promises mo of the same. Loss of the honey loan program or reduction in the rate of support will bankrupt a number of our commercial beekeepers.

For the Subcommittee's information I am attaching the following:

- A letter Senator Larry Pressler dated September 19, 1983.
- An article by Dr. Roger Morse, Department of Entomology, Cornell University.
- Our letter to the Secretary of Agriculture Block dated July 5, 1983.

We urge the Subcommittee to give serious consideration to duties and quotas which seems to be the only solution for industry survival and continuation of free pollination to Agriculture.

Respectfully Submitted

Glenn Gibson, Executive Secretary
American Honey Producers Association
October 24, 1983

Attachments - 3

United States Senate
WASHINGTON, D.C. 20510

September 19, 1983

Mr. Glenn Gibson
American Honey Producers Assoc.
P. O. Box 368
Minco, Oklahoma 73059

Dear Mr. Gibson:

As you know, I recently met with a group of beekeepers and U.S. Secretary of Agriculture Block. Several issues were discussed and several misconceptions by the Department of Agriculture became evident. Since the meeting, I have been working to correct USDA's false impressions. Two such misunderstandings are that beekeepers receive a large part of their income from pollination fees and that the honey loan program has encouraged increased honey production.

You know that these things are not true, but it became clear at the meeting that the Department of Agriculture does not understand this. In an effort to bring attention to this matter, I recently made a speech on the Senate floor concerning the honey industry. For your information, I am enclosing a copy of my statement.

You can be assured that I will continue to fight for the continuation of an effective honey program. If you have any questions or comments, please don't hesitate to contact me.

Sincerely,

Larry Pressler

Larry Pressler
United States Senator

LP/mud
Enclosure

Meeting With Secretary Of Agriculture Block

By ROGER A. MORSE
Department of Entomology
Cornell University
Ithaca, NY 14853

A number of persons from the beekeeping industry representing honey producers, packers, bee supply dealers, and others met with Secretary of Agriculture John Block in Washington on July 29. The group was accompanied by Senator Larry Pressler from South Dakota who had arranged the meeting. In many ways the outcome was not satisfactory, but the meeting did serve to clarify the administration's position concerning beekeeping and the price support program for honey.

If the Secretary of Agriculture had his way, there would be not price support program or any other industry protection. The Secretary, like the President, is a free trader. There are many things in favor of free trade. The primary one is that those who can produce a commodity for the least amount of money will dominate the market, and as a result, food will be cheaper. The Secretary said at one point, "There is a lesson to be learned" if Chinese beekeepers can produce honey for less than beekeepers in the United States.

There are also reasons why the government has and will continue to support the price of certain commodities. For example, the legislation concerning the support price for milk says there shall be such a program, "In order to assure an adequate supply of pure and wholesome milk to meet current needs." In other words, the writers of that legislation wanted to make sure that the children of America had all the milk they needed for good health.

There are also sound reasons for supporting the price of honey. In our discussions with the Secretary, he said that the users of bees for pollination should be those who pay to support the industry. The thought that users should pay for the services they receive is one that permeates government at all levels today and, again, sounds good on the surface. However, to make such a statement concerning the beekeeping industry indicates a profound lack of knowledge about pollination and how it is done in this country. It is obvious to me that the beekeeping industry has not done a good job of telling people where and how honey bees are used. This is an educational process, and it is one that must be repeated.

Pollination and Wildlife

The wildlife of this country depends upon fruits, berries, nuts, and seeds for existence. It should be remembered that before the settlement of North America by Europeans, the pollination of these crops was done by flies, beetles, and twig and ground nesting bees. However in the past several hundred years, wildlife from other parts of the world has been introduced into the United States. These animals use foods that are often not native to this country. In addition, several flowering plants have been introduced. Solitary and ground nesting bees are abundant in many areas; in fact, I have found that in parts of New York State they outnumber honey bees two to one. However, for the most part these bees are small insects are not capable of pollinating many of the introduced plants, especially certain clovers with large flowers. They are also not sufficiently abundant or large enough to pollinate apples and many other fruits. The wildlife of the United States is a great user of the pollination services, and there is no way beekeepers can collect money for this service.

Pollination and Home Gardens

Gardening is a popular hobby and an important producer of food that helps to reduce grocery expenses in the United States. Many of the crops grown in home gardens do not require pollination, but others such as squash, cucumbers, melons, pumpkins, and a host of fruits, including apples, pears, blackberries, raspberries, strawberries, either require or benefit from adequate pollination. A community that may have one beekeeper, probably has 50 or 100 home gardeners. As in the pollination of crops for wildlife, certain other insects play a role in pollination but honey bees are the most important. It should be remembered too that many of our better garden varieties are man-made plants (man-selected) and require an insect as large as a honey bee for adequate pollination. Again, there is no way that a beekeeper can assess or collect a fee from these users of his bees in his community.

Pollination in Rural America

As one drives across the farmlands of our country and looks for apiaries, one will be found every two, three, or four miles in better farm country. This is often not evident because beekeepers hide their apiaries in order to reduce vandalism. If the apiaries are two miles apart, then the bees are foraging over a minimum of about four square miles, whereas if they are three or four miles apart, the area is as large as 9 or 16 square miles. Recent research has shown that it is not uncommon for honey bees to fly five or six miles for food. As in urban America, these bees pollinate fruits and vegetables in home gardens; however, by far the most important role they play is in the pollination of clovers in permanent pastures. We don't pasture dairy cows as we once did in America, but we do pasture dry cows and heifers, beef cattle, sheep, goats, and horses. Permanent pastures exist in many parts of the country because there is reseeding of the clovers and plants such as birdsfoot trefoil. Birdsfoot trefoil is an example of an introduced European plant that requires an insect as large as the honey bee to accomplish pollination. When bees are foraging over an area of many square miles, it is again obvious that user fees will not be collected.

Roadside Plantings

In New York State the Department of Transportation requires that roadside plantings include a certain amount of birdsfoot trefoil. This is because this plant, once established, is permanent. It reseeds itself, and because of its deep root system, aids in erosion control. In Pennsylvania, crown vetch is used, and I presume other states have similar requirements for obvious reasons. Again, these plantings would not be permanent without adequate pollination and it is obvious that state departments of transportation are not in a position to reimburse beekeepers.

Pollination in Intense Agricultural Systems

In many places in the United States, user fees are paid for pollination. The most notable examples are apples across the northern United States, almonds in California, alfalfa in the western states, blueberries in Michigan, Maine, New Jersey and North Carolina, cucumbers in several states, and a host of other crops. The article by Dr. Everett Oertel in the March 1983 issue of *American Bee Journal* summarizes the rental of honey bee colonies by beekeepers in the United States. The greatest number of colonies is rented in California followed by the states of Washington, Michigan, New York, Florida. However, the number of colonies for which a user fee is paid is only slightly over 10% of the number of colonies found in the whole country.

Most Pollination is Free

What must be emphasized is that most pollination service is free. It has traditionally been this way and will remain so for good and ample reasons.

Continued on next page

Meeting With Secretary Block

Continued from page 537

Problems With The Current Price Support Program

It is clear that the current price support program is not working. The fault does not lie with the beekeepers or the beekeeping industry but the fact that Apiculture is changing worldwide. Our price support program is underwriting the price of honey in Canada, Mexico, Argentina, China and every other honey-producing country on earth; that was not the intention of the original legislation.

At present there is a 15-20 cents per pound spread between the price being paid by honey packers and the price support program price being paid by the Federal Government for honey that will be taken over by the government from the 1983 crop will approach 100 million pounds. Obviously, the program must be redesigned.

If the U.S. Department of Agriculture fails to act to change the present price support legislation, then the industry and the Congress must provide the solution. ☐

Honey Producers Dispel Pollination And Overproduction Myths

The Honorable John R. Block
Secretary of Agriculture
Washington, D.C. 20250

Dear Mr. Secretary:

DURING the last three years honey producers over the country have written hundreds of letters to members of Congress about our problem with imports and the possibility of losing the honey price supports. Most of these have been bucked to your office for reply. Some producers have written you and others in the Department. I have received copies of a number of these both to and from Washington. All producer correspondence expressed deep concern about the possible loss of honey supports if imports were not controlled.

A close study of the letters that have originated in the Department of Agriculture reveals several troublesome bits of misinformation. Also, we have noted that this erroneous information has appeared in the news. We feel that your Department can assist us in correcting these errors.

The most troublesome points are:

1. That pollination fees can be increased to soften the effects of pesticide losses and cheap imports.
2. That high subsidies or supports will cause overproduction of honey.

For more than 30 years we have stressed the value of honey bee pollination when seeking assistance of any nature from the government. Honey bee pollination benefits to other segments of agriculture has been estimated at $10 billion or more. Discussions with members of Congress and officials in the Administration about the value of honey bee pollination have overlooked one point — only a tiny percentage of beekeepers actually received cash rentals. In actual practice more than 90 percent of beekeepers pollinate neighboring crops free of charge. As a result of overlooking this point when discussing honey bee pollination, a number in the Congress and Administration feel that we can partially solve our economic problems by merely raising the pollination fees.

This shocking realization came to us suddenly during our losing fight to save the Beekeepers Indemnity Payment Program when a congressman suggested that the pesticide problem could be partially solved by raising the pollination fees. This hazy thinking originated in a study by Frederic L. Hoff, Economic Research Service, USDA, December 1976. Evidently, these researchers did not realize that only a tiny number of beekeepers were engaged in paid pollination.

The Department has responded to several inquiries from Congress about the impact of low honey prices on pollination. These replies indicate a solution to low honey prices would be to raise the pollination fees. Sen. Paul Laxalt received a letter from Ray F. Voelkel dated May 6, 1983 which states that the price of honey should not be the deciding factor as to availability of honey bees for pollination. Since most of the honey bee pollination is done free of charge, we must insist that the price of honey would be the deciding factor nationally.

An editorial in the June 11 issue of the Washington Post implies that a solution to imports will be realized by raising the pollination fees. First, Mr. Secretary, we need to know how many beekeepers can operate selling pollination services alone.

The second troublesome point is that high prices caused from subsidies or otherwise will result in overproduction. A close look at the Department's experience with the honey loan program during these last 30 years indicates that prices received have very little to do with production totals. We feel that a cursory study by the Economic Research Service would verify our position.

Since we are working ferverishly toward a solution to our marketing problem, we feel that these hazy points should be cleared up. We will certainly appreciate it if you would give these items your personal attention.

Glenn Gibson, Executive Secretary
THE AMERICAN HONEY PRODUCERS
ASSOCIATION

THE SWEETENING OF AMERICA

DID you know that the United States has become a honey-dumping ground of the world? That's what Richard Adee, of Bruce, S.D., says, and he ought to know, he's vice president of the 650 member American Honey Producers Association. "Our big markets are lost," he says, "and it appears the government program will take about 75 million pounds of our 220-million-pound crop." The solution, according to Mr. Adee, is simple; raise the current 1 cent-per-pound import tariff on honey to 10 cents.

One's first reaction is amazement: Does the United States really produce 220 million pounds of honey a year? Can it be true that there are government warehouses filled with leaking containers of sticky honey? Is there really a beekeepers' lobby? Will they, if things get really sticky, demonstrate en masse on Capitol Hill, covered with protective neting and accompanied by swarming hives?

The advocate of the beekeepers' bill, Sen. Larry Pressler (R.S.D.), assures one and all that while he is "usually not this much of a protectionist," this issue is different. Bees, it turns out, are useful not only for making honey but for pollinating all kinds of crops as well — from apples to alfalfa to avocados. Beekeepers lease out their bee colonies to other farmers, who want to have their crops pollinated. If you make the bee business unprofitable, the beekeepers' lobby says, then you won't have many beekeepers, and a lot of crops that need to be pollinated won't be. Give us a little more protection, and everything will be fine.

Maybe so. But we wonder what happened here to the old law of supply and demand. A farmer with a field full of potential avocados should be willing to pay a beekeeper whatever the traffic will bear to get some bees in there to pollinate his crops; otherwise he won't have many avocados to sell. Increased costs can be passed along to consumers, as they usually are. Perhaps there's something special here about the market mechanisms that makes protection necessary. But do the beekeepers really need a 10-cent-sweetener? (*The Washington Post,* June 11, 1983) ●

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TAFT, STETTINIUS & HOLLISTER

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October 27, 1983

Mr. Roderick A. DeArment
Chief Counsel
Committee on Finance
Room SD-219
Washington, D.C. 20510

Re: S. 722; H.R. 3398 (Hearing date October 21, 1983)

Dear Mr. DeArment:

In his statement to the International Trade Subcommittee, Senator Alan J. Dixon stated that there are only 26 domestic bicycle parts manufacturers and attached a list. That number and list reflect domestic bicycle parts manufacturers who are members of the Cycle Parts and Accessories Association, Inc., the industry trade association.

According to House Report No. 98-267 (accompanying H.R. 3398), "[t]he bicycle component parts industry consists mainly of small businesses, the number of which is not known but is believed to be at least 50, plus about 40 firms which make custom-made frames (not finished bicycles)." It is because many of these companies are very small that no exact list or number is available. However, I have enclosed a list which represents the most complete listing of domestic parts manufacturers which we are able to develop at this time.

We ask that you include this list in the record. This request is made with Senator Dixon's permission.

Sincerely yours,

Virginia E. Hopkins

Virginia E. Hopkins

VEH:pz

Enclosure

cc: Senator Alan J. Dixon

BICYCLE PARTS MANUFACTURERS

NOT MEMBERS OF CYCLE PARTS & ACCESSORIES ASSOCIATION, INC.

GREENFIELD INDUSTRIES, INC.
7 Maple Place
Freeport, NY 11520
(516) 623-9230

Peter Greenfield, President

RHODE GEAR USA
P.O. Box 1087
Providence, RI 02901
(401) 331-8325

Dixon Newbold, Vice-President

MIRRYCLE CORPORATION
P.O. Box 2157
Boulder, CO 80306
(303) 447-9273

Barry Schacht, President

SCORPION CYCLE, INC.
2120[illegible] Superior Street
Chatsworth, CA 91311
(213) 882-5500

Paul R. Hinkston, President

NO-MORFLATS
International Innertire, Inc.
870 Parfet Street
Lakewood, CO 80215
(303) 232-5555

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TRUE TEMPER SPORTS DIVISION
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August 1983

CPAA - YOUR PARTNERS IN BIKE PROGRESS

BEFORE THE

SUBCOMMITTEE ON INTERNATIONAL TRADE

OF THE COMMITTEE ON FINANCE

UNITED STATES SENATE

STATEMENT

ON BEHALF OF

THE AMERICAN NETTING MANUFACTURERS ORGANIZATION

IN SUPPORT OF S.1853

November 7, 1983

Williams & Ince
1620 Eye Street, NW
Washington, D.C. 20006

James D. Williams, Jr.

Of Counsel

The American Netting Manufacturers Organization, ANMO, is composed of seven member companies which produce approximately 70 percent of all fish netting manufactured in the United States. ANMO members are located throughout the United States (See Appendix I).

The current section 466(e) of the Tariff Act of 1930 (19 U.S.C. 1466(e)) was enacted as section c by Public Law 91-654, 1944 of January 5, 1971, and re-designated section e by Public Law 95-410 §206(2) on October 3, 1978. The specific portion assessing a duty on fish nets and netting obtained abroad by U.S. vessels was enacted to plug a loophole in the tariff laws which allowed individuals to obtain foreign-made fishing nets without payment of the appropriate duty.

S. 1853 would support the Administration's position with regard to ship repairs obtained abroad while maintaining the current tariff on fishing nets, thus not further adversely impacting this struggling domestic industry. Tariffs on nets are currently being reduced in stages following the schedule aggreed to in Geneva in 1979. This international quid pro quo reduction follows U.S. trade policy. To accidentally abolish a tariff with no reciprocity by not maintaining this section would be directly counter to U.S. trade policy.

Appendix I

AMERICAN NETTING MANUFACTURERS ORGANIZATION

MEMBERS

BAYSIDE NET & TWINE CO., INC.
Brownsville, TX 78520

BLUE MOUNTAIN INDUSTRIES
Blue Mountain, AL 36201

CARRON NET COMPANY, INC.
Two Rivers, WI 54241

MID LAKES MANUFACTURING CO.
Knoxville, TN 37918

NYLON NET COMPANY
Memphis, TN 38101

HAGIN FRITH & SONS CO.
Willow Grove, PA 19090

NORTHWEST NET & TWINES, INC.
Everson, WA 98247

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